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PREFACE

This Code constitutes a complete recodification of the ordinances of the City of Virginia Beach of a general and permanent nature. As expressed in the Adopting Ordinance, the Code supersedes all such ordinances not included herein or recognized as continuing in force by reference thereto.

Source materials used in the preparation of the Code were the 1965 Virginia Beach City Code as supplemented through March 26, 1979, and ordinances subsequently adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the Comparative Tables appearing in the back of the volume, the reader can locate any section of the 1965 Code and any subsequent ordinance included herein.

The chapters of the Code are arranged in alphabetical order and the sections within each chapter are catchlined to facilitate usage. Footnotes which tie related sections of the Code together and which refer to correlative Charter provisions and relevant provisions of the state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this volume.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash representing the chapter number and the figure after the dash indicating the position of the section within the chapter. Thus, the first section of chapter 1 is numbered 1-1 and the ninth section of chapter 2 is 2-9. Under this system, each section is identified with its chapter, and, at the same time, new sections or even whole chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 4-2 and 4-3 is desired to be added, such new sections would be numbered 4-2.1, 4-2.2 and 4-2.3 respectively. New chapters may be included in the same manner. If the new material is to be included between chapters 12 and 13 it will be designated as chapter 12.1. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may

be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology and still others in language generally used by government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.

Looseleaf Supplements

A special feature of this Code is the looseleaf system of binding and supplemental service, by which the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into the Code, may be cited as a part thereof, as provided in section 5 of the Adopting Ordinance.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

The publication of this Code was under the direct supervision of George R. Langford, President, and Robert D. Ussery, Vice-President, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publishers' staff for their sincere interest and able assistance throughout the project.

The publishers are most grateful to Mr. J. Dale Bimson, City Attorney, for his cooperation and assistance during the progress of the work on this Code. It is hoped that his efforts and those of the publishers have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

March, 1981

	MUNICIPAL CODE CORPORATION
	Tallahassee, Florida

ADOPTING ORDINANCE

An Ordinance Adopting and Enacting a New Code for the City of Virginia Beach, Virginia; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending and Supplementing Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Council of the City of Virginia Beach, Virginia:

Section 1. That the Code of Ordinances, consisting of Chapters 1 to 38, each inclusive, is hereby adopted and enacted as the "Code of the City of Virginia Beach, Virginia," which Code shall supersede all general and permanent ordinances of the City adopted on or before October 27, 1980, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force and effect from and after May 25, 1981, and all ordinances of a general and permanent nature of the City of Virginia Beach, adopted on final passage on or before October 27, 1980, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of such Code.

Section 3. That the repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. That any person convicted of a violation of such Code shall be punished as prescribed in Section 1-9 thereof, or as provided in any other applicable section of such Code.

Section 5. That any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Council to make the same a part of such Code, shall be deemed to be incorporated in such Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment of any section of such Code, or the addition of any section thereto, for Which a penalty is not provided, the general penalty, as provided in Section 1-9 of such Code shall apply to the section as amended or added, or in case such amendment or addition contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended or added, unless such penalty is specifically repealed therein.

Section 7. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 8. This ordinance shall become effective from date of adoption.

Adopted by the Council of the City of Virginia Beach, Virginia, on the 16th day of March, 1981.

JDB: jh
2-20-81

APPROVED AS TO CONTENT

_____
SIGNATURE

_____
DEPARTMENT

APPROVED AS TO FORM

JDB 3-11-81

_____
SIGNATURE
CITY ATTORNEY

Certified to be a true excerpt from the Minutes of the Council of the City of Virginia Beach adopted March 16, 1981, subject to approval of the Minutes on March 23, 1981.

(SEAL)

Ruth Hodges Smith
City Clerk

Chapter 10.5 - EMERGENCY MEDICAL CARE AGENCIES AND VEHICLES

Footnotes:
*--- (**1**) ---*
***Editor's note—** Ord. No. 1198, adopted June 8, 1981, amended the Code to add Ch. 39 thereto; in order to preserve alphabetical order of chapter titles, the editor has designated the provisions as Ch. 10.5, §§ 10.5-1—10.5-3.*
***Cross reference—** Department of emergency medical services, § 2-421 et seq.; license code, Ch. 18; traffic regulations for emergency vehicles, § 21-16; parking near ambulance or rescue squad station entrance, § 21-364(a)(5); calling an ambulance without cause, § 23-8.*

Sec. 10.5-1. - Definitions.

Agency means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

Emergency medical service vehicle means any vehicle, vessel, aircraft or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded or otherwise incapacitated or helpless.

(Ord. No. 1189, 6-8-81; Ord. No. 2764, 6-3-03)

Sec. 10.5-2. - Permit required.

(a) In accordance with Code of Virginia, § 32.1-111.14, as amended, it shall be unlawful for any individual or organization to operate an emergency medical services agency, or any emergency medical services vehicle in the city for emergency transport purposes or nonemergency transport purposes, without first being granted a permit to do so by the city council.

(b)

The provisions of subsection (a) above shall not be applicable to the department of emergency medical services, any volunteer rescue squad formally recognized by such department as a provider of emergency medical services within the city, any government operated emergency medical services agency providing service under the authority of a mutual aid agreement or a memorandum of understanding with the city, any lifeguard service operating on the public beaches of the city pursuant to a contract with the city, or Virginia Beach Emergency Response System agencies, including but not limited to, the Virginia Beach Police Department, the Virginia Beach Fire Department or the Virginia Beach Parks and Recreation Department.

(c) All permits issued pursuant to subsection (a) above and in effect on January 1, 1985, shall expire on June 30, 1985. Applications for renewal permits shall be accepted beginning thirty (30) days prior to June 30, 1985. Any permit issued for the first time shall be valid from the date issued until the thirtieth day of June the calendar year after the issuance date. Applications for renewal of such permits shall be accepted beginning thirty (30) days prior to the thirtieth day of June of the year of expiration and, if issued, shall be valid for a period of two years. However, any permit issued under this section may be revoked or suspended at any time by city council for failure of the permit holder, his agents, and/or employees to comply with all applicable statutes, ordinances, rules, regulations, policies and procedures.

(d) The number of ambulances, prescribed areas of operation, prescribed levels of care rendered, fixed charges and fees for services delivered, required limits of liability insurance coverage and other rules and regulations not inconsistent with the laws of the commonwealth shall be prescribed for under said permit.

(Ord. No. 1189, 6-8-81; Ord. No. 1471, 7-9-84; Ord. No. 1502, 12-10-84; Ord. No. 1954, 5-7-90; Ord. No. 2406, 7-2-96; Ord. No. 2764, 6-3-03; Ord. No. 3432, 11-17-15)

Sec. 10.5-3. - Contracts with the city.

The city manager is hereby authorized to contract with any private permitted agency for transportation to be rendered upon call of the city for transportation of bona fide indigents or persons certified by the department of social services to be public assistance recipients.

(Ord. No. 1189, 6-8-81)

Chapter 11 - FARMER'S MARKET

Footnotes:
*--- **(1)** ---*
***Cross reference—** General duty of department of agriculture to maintain, operate and supervise the farmer's market, § 2-349.*
***State Law reference—** Authority of city to operate markets, Code of Virginia, § 15.1-880.*

Sec. 11-1. - Definitions.

For the purpose of this chapter, the word "market" shall mean the Virginia Beach Farmer's Market, as established by section 11-2, and the term "domestic products" shall mean food, nursery, crafts and other goods authorized by the city manager.

(Code 1965, § 36-1; Ord. No. 1363, 3-21-83)

Sec. 11-2. - Compliance with chapter, etc.

Every person selling or offering farm or domestic products for sale in the market shall observe, comply with and be bound by this chapter and all other provisions of this Code and all other laws, ordinances and resolutions relating to the sale or offering for sale of farm and domestic products, as well as the rules and regulations provided for in section 11-7.

(Code 1965, § 36-8; Ord. No. 1363, 3-21-83)

Sec. 11-3. - Violations of chapter.

(a) Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 3 misdemeanor.

(b) The superintendent of the market or any police officer may order any person to remove products offered or displayed for sale or intended to be offered or displayed for sale by such person, and any vehicle used in connection therewith, from the market or the vicinity of the market, when such person is found violating the provisions of this chapter or any rule or regulation adopted pursuant to section 11-7. It shall be unlawful for any person to fail, neglect or refuse to obey such order.

(Code 1965, § 36-7)

Sec. 11-4. - Established; name; location.

There is hereby established a market, to be known and designated as the "Virginia Beach Farmer's Market", to be located on a certain tract of land containing eleven (11) acres, more or less, situate at the intersection of Princess Anne and Landstown Roads.

(Code 1965, § 36-3)

Sec. 11-5. - Appointment of superintendent and assistants.

The director of the department of agriculture shall appoint a superintendent of the market and such assistants as he may deem necessary. The superintendent shall be immediately responsible to the director of the department of agriculture.

(Code 1965, § 36-9; Ord. No. 1021, 1-21-80)

Sec. 11-6. - General duties of superintendent.

The superintendent of the market shall preserve peace and order in the market and shall be charged with the supervision of maintaining the market in a sanitary condition at all times.

(Code 1965, § 36-10)

Sec. 11-7. - Rules and regulations governing use.

The division of markets of the department of agriculture is hereby authorized to adopt rules and regulations, not inconsistent with this chapter, governing the use of the market, which rules and regulations shall be subject to the approval of the city manager.

(Code 1965, § 36-3)

Sec. 11-8. - Tenant's agreement.

No person shall sell or offer for sale any articles in the market until he has signed an agreement to abide by the market rules and regulations.

(Code 1965, § 36-4)

Sec. 11-9. - Rental charges and periods generally.

(a) The city manager shall establish and adjust all rental periods as well as all rents, fees and other charges applicable to the farmer's market. The revenues received by the city from those offering or selling farm or domestic products on the farmer's market shall be used to maintain and operate the market.

(b) All rent payments, fees and other charges attributable to those offering or selling farm or domestic products on the market shall be collected as rents and paid no later than the end of the rental period.

(c) No charges will be made to individuals invited by the market staff to participate in promotional events.

(d) Special signs will be provided to market tenants at a rate established by the city manager.

(Code 1965, § 36-5; Ord. No. 1021, 1-21-80; Ord. No. 1363, 3-21-83)

Sec. 11-10. - Record and disposition of rents and income; accounting for receipts and expenses.

The superintendent of the market shall keep a correct record of all rents and income received by him for stalls, spaces or places and shall pay over the same to the city treasurer. He shall give an accounting of all receipts and expenses to the director of finance bimonthly or as the director of finance may deem necessary.

(Code 1965, § 36-11; Ord. No. 1021, 1-21-80)

Sec. 11-11. - Maintenance responsibilities of tenants.

Every tenant of the market shall keep the space, place or stall assigned to him in a clean and sanitary condition at all times and shall dispose of his refuse in a manner and at the place designated by the superintendent of the market.

(Code 1965, § 36-6)

Chapter 12 - FIRE PREVENTION AND PROTECTION

Footnotes:
*--- (**1**) ---*

Cross reference— *Buildings and building regulations, Ch. 8; housing code, Ch. 16; parking near fire hydrants, within fire lane, near driveway entrance to fire station or at any place so as to block fire department connections, § 21-356; parking near scene of fire, § 21-369; calling fire-fighting apparatus without cause or malicious activation of fire alarm in public building, § 23-8; use of commercial-type incinerators for burning solid waste, § 31-4; water supply, Ch. 37; use of fire hydrants, § 37-22; use of water for private fire protection systems, § 37-23.*

State Law reference— *Fire protection, Code of Virginia, title 27; authority of city to make regulations for purpose of guarding against danger of fire, § 15.1-15.*

ARTICLE I. - IN GENERAL

Sec. 12-1. - Destruction of buildings to prevent spread of fire.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance relating to the destruction of buildings or other structures to prevent the spread of fire, or to recovery of damages in regard thereto by the owner, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 12-2. - Liability for expenses incurred in fighting certain fires.

Any person who negligently, carelessly or intentionally sets any woods or marshes on fire, or sets fire to any stubble, brush, straw, or any other substance capable of spreading fire on lands, whereby the property of another is damaged or jeopardized, shall be guilty of a class 4 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting or extinguishing such fire.

(Code 1965, § 16-4; Ord. No. 3585, 5-7-19)

State Law reference— Similar provisions, Code of Virginia, § 18.2-88.

Sec. 12-3. - Reserved.

Editor's note— Ord. No. 3208, adopted November 22, 2011, repealed § 12-3, which pertained to open burning prohibited; exceptions and derived from § 16-19 of the 1965 Code; Ord. No. 1664, 12-22-86; Ord. No. 2289, 8-23-94.

Sec. 12-4. - Open burning.

(a) Open burning, where permitted by the Virginia Statewide Fire Prevention Code, shall be constantly monitored until the fire is extinguished. Fire extinguishing equipment shall be available for immediate use.

(b) The fire chief shall prohibit open burning, otherwise lawful, when smoke may cause reduced visibility on any highway, or when emissions or odors may constitute a hazard or nuisance. The fire chief shall order the extinguishing by the permit holder or other responsible person, or by the fire department, of any fire which creates such a hazard or nuisance, or if adjacent property is considered to be endangered.

(Code 1965, § 16-18; Ord. No. 2289, 8-3-94; Ord. No. 3208, 11-22-11; Ord. No. 3433, 12-1-15)

State Law reference— Similar provisions, Code of Virginia, § 10.1-1144.

Sec. 12-5. - Fires on beaches.

It shall be unlawful and a Class 1 misdemeanor for any person to set fire to or to procure another to set fire to any wood, brush, logs, leaves, grass, debris or other flammable material at any time on any sand beach of the city.

(Code 1965, § 16-15; Ord. No. 1366, 4-11-83; Ord. No. 1789, 6-20-88; Ord. No. 2289, 8-23-94)

Cross reference— Beaches generally, Ch.6.

State Law reference— Authority for above section, Code of Virginia, § 15.1-872.

Sec. 12-6. - Fires on streets.

It shall be unlawful and a Class 1 misdemeanor for any person to burn, or cause to be burned, any substance of any kind on any of the streets of the city.

(Code 1965, § 16-16)

Cross reference— Streets, Ch.33.

State Law reference— Authority for above section, Code of Virginia, § 15.1-872.

Secs. 12-7—12-9. - Reserved.

Editor's note— Sections 12-7—12-9 were deleted in their entirety by Ord. No. 1789, adopted June 20, 1988. Said sections pertained to extinguishing open fires before leaving unattended, testing of underground tanks for storage of flammable liquids, and removal thereof when no longer used, and were derived from Code 1965, §§ 16-13, 16-14 and 16-17.

Secs. 12-10—12-20. - Reserved.

ARTICLE II. - DEPARTMENT OF FIRE PROTECTION

> *Footnotes:*
> *--- (**2**) ---*
> ***Cross reference—** Mandatory retirement age for firefighters, § 2-81; use, operation, etc., of device to automatically initiate call and deliver prerecorded message to telephone number of city public safety services, § 23-9.*
> ***State Law reference—** Local fire departments and fire companies, Code of Virginia, § 27-6.1 et seq.*

Sec. 12-21. - Created; composition.

There is hereby created a fire department, which shall be composed of the fire companies located throughout the city, headed by a fire chief. The fire department is an all-hazards response agency and is a fundamental component to emergency services, disaster planning, and emergency management.

(Code 1965, § 2-57; Ord. No. 1097, 10-6-80; Ord. No. 3433, 12-1-15; Ord. No. 3650, 2-2-21)

Charter reference— Authority of council to create departments, § 3.05(b).

Sec. 12-21.1. - Functions.

The fire department, under the direction of the fire chief, shall be responsible for preventing, suppressing, controlling, limiting, and extinguishing accidental or intentionally destructive fires on land and water. The fire department shall be responsible for controlling and supervising the provision of services that protect life and property that include, but are not limited to, hazardous, combustible, radiological, and explosive materials, including gas leaks; rescues at accidents of any nature involving injuries and/or entrapments; technical rescues involving rope rescue, trench, aircraft, and confined space incidences; situations involving an imminent danger or actual occurrences of fire, explosion, and structural collapse; and maritime incidents that involve fire, a technical rescue, and hazardous materials. The fire department shall also support the emergency management coordination of the city and specifically assist in evacuation activities, search and rescue of disaster victims, and any other emergency response activities, as needed. The fire marshal shall investigate the causes of fires; prosecute alleged arson, threats to burn, threats to bomb, post-blast investigations or other related criminal acts; and enforce the Virginia Statewide Fire Code and related codes as incorporated and/or amended. The police department bomb squad personnel (also known as "Hazardous Device Technicians") shall be under the supervision and control of the police special operations bomb squad commander while engaged in render safe operations, device inspection, and recovery of hazardous devices. During fire incidents and fire investigations of alleged arson, threats to burn, threats to bomb, post-blast explosive device investigations, police bomb squad personnel will work in cooperation with the fire chief. In cooperation with the department of emergency medical services, fire department personnel shall be under the supervision and control of the fire chief and the emergency medical services chief when engaged in emergency medical services involving the treatment and/or transport of patients, pursuant to sections 2-422 and 2-423 of this Code.

(Ord. No. 3433, 12-1-15; Ord. No. 3481, 12-13-16)

Sec. 12-22. - Departmental rules and regulations.

The fire chief, with the approval of the city manager, shall make rules and regulations concerning the operation of the fire department, the conduct of the officers, employees and members thereof and, their uniforms, equipment, training and procedures.

(Code 1965, § 2-60; Ord. No. 1097, 10-6-80; Ord. No. 3433, 12-1-15)

Sec. 12-23. - Composition and service areas of fire companies generally.

(a) The fire companies shall consist of such officers, employees, volunteers and members as shall be provided by the city manager or the fire chief.

(b) The fire companies shall serve such areas as shall be designated by the fire chief.

(Code 1965, §§ 2-58, 2-59; Ord. No. 1097, 10-6-80; Ord. No. 3433, 12-1-15)

Sec. 12-24. - Composition and rules and regulations of volunteer fire companies.

Each volunteer fire company within the city shall consist of such officers and members as are provided for in its bylaws and the provisions of this article, except that no position shall be in conflict with the rules and regulations established by the city manager and the fire chief. No rules or regulations of any volunteer fire company shall conflict with rules and regulations established pursuant to section 12-22.

(Code 1965, § 2-61; Ord. No. 1097, 10-6-80; Ord. No. 3433, 12-1-15)

Cross reference— Issuance of vehicle license plate or decal to members of volunteer fire companies, § 21-79.

State Law reference— Volunteer fire companies, Code of Virginia, § 27-8 et seq.

Sec. 12-25. - Fire marshal, deputies and assistants.

(a) The fire chief or his designee shall be the fire marshal.

(b) Within the fire department, there shall be appointed by the fire marshal such deputies and assistants as may be necessary. These deputies and assistants shall have the same powers and perform the same duties as the fire marshal, at his direction or in his absence. The fire marshal shall be responsible for the enforcement of the fire prevention code referenced by section 12-41 of this Code, this chapter, and related laws of the city and state, and for the investigation and prosecution of all cases of alleged arson and other fire-related incidents suspected to involve criminality.

(c) In making such investigations, the fire marshal may issue a summons directed to the sheriff of the city commanding him to summon witnesses to attend before the fire marshal, or his authorized designee, at such time and place as he may direct. Any such officer to whom the summons is delivered shall forthwith execute it and make return thereof to the fire marshal at the time and place named therein. Any witnesses on whom such summonses are served may be compelled by the fire marshal to attend and give evidence and shall be liable in like manner as if the summonses had been issued by a magistrate in a criminal case. They shall be sworn by the fire marshal before giving evidence and their evidence shall be reduced to writing by him or under his direction and subscribed by them, respectively.

(d) The fire marshal and his deputies and assistants, before entering upon their duties, shall respectively take an oath before any officer authorized to administer oaths, faithfully to discharge the duties of such office. A certificate of the oath shall be returned to and preserved by the clerk of circuit court.

(e) The fire marshal and his deputies and assistants shall have the authority to arrest, to procure and serve warrants of arrest and to issue summonses in the manner prescribed by law, for violations of chapter 12 of the City Code and fire safety and related ordinances and laws of the city and state. The authority granted in this section shall not be exercised until such person has satisfactorily completed a training course for fire marshals and their assistants, which course shall be approved by the Virginia Fire Services Board.

(f) The fire marshal and his designated deputies and assistants shall have the same powers as a sheriff, police officer, or law enforcement officer. The investigations of all alleged offenses pursuant to Title 27 of the Code of Virginia, as amended, shall be the responsibility of the fire marshal or his designee. The police powers granted in this section shall not be exercised by the fire marshal or any deputy or assistant until such person has satisfactorily completed a course designed for fire marshals with police powers and approved by the

Virginia Fire Services Board. In addition, such person with police powers shall continue to exercise those police powers only upon participation in and satisfactory completion of in-service and advanced courses as shall be required and approved by the Virginia Fire Services Board.

(Code 1965, § 2-62; Ord. No. 1677, 4-13-87; Ord. No. 2064, 5-14-91; Ord. No. 2289, 8-23-94; Ord. No. 2721, 9-3-02; Ord. No. 3433, 12-1-15)

Sec. 12-25.1. - Right of entry to investigate releases of hazardous material, hazardous waste, or regulated substances.

The fire marshal shall have the right to enter upon any property from which a release of any hazardous material, hazardous waste, or regulated substance, as defined in Code of Virginia, section 10.1-1400 or section 62.1-44.34:8, has occurred or is reasonably suspected to have occurred and which has entered into the ground water, surface water or soils of the county, city or town, in order to investigate the extent and cause of any such release. If, in undertaking such an investigation, the fire marshal makes an affidavit under oath that the origin or cause of any such release is undetermined and that he has been refused admittance to the property, or is unable to gain permission to enter the property, any magistrate of the city may issue an investigation warrant to the fire marshal authorizing him to enter such property for the purpose of determining the origin and source of the release. If the fire marshal, after gaining access to any property pursuant to such investigation warrant, has probable cause to believe that the release was caused by any act constituting a criminal offense, he shall discontinue the investigation until a search warrant has been obtained or consent to conduct the search has otherwise been given.

(Ord. No. 2289, 8-23-94)

Sec. 12-26. - Background investigations of applicants for employment.

In order to determine if any past criminal conduct of any applicant for employment with the department of fire protection would be compatible with the nature of the position under consideration, the following procedure shall be followed:

(1) Each such applicant shall furnish a classifiable set of fingerprints to the department of police.

(2) The chief of police and members of the department of police acting in his name, and the fire chief or an investigator designated by the fire chief within the fire department, are authorized to conduct a field investigation and directed to conduct criminal record checks on each such applicant.

(3) The chief of police or a member of the police department acting on his behalf, or an investigator designated by the fire chief within the fire department, shall prepare a factual summary of the background investigation and criminal records check of each firefighter applicant and transmit such summary to the fire chief for the purpose of determining the fitness of the applicant.

(4) Background investigations and records checks include records of all arrests and dispositions as an adult. Records of arrests and dispositions, while an applicant was considered a juvenile, shall be transmitted only when authorized by court order, court rule, court decision, federal regulation or state statute authorizing such dissemination.

(5)

Criminal history records and information shall include arrest and disposition data on file in the national crime information center, the federal bureau of investigation, the department of defense and all other federal, state and local law-enforcement agencies.

(6) Any applicant who is denied employment on the basis of the investigation summary referred to in this section may inspect that summary for the purpose of clarifying, explaining or denying the accuracy of its contents.

(7) The chief of police and members of the police department shall make no other dissemination to the fire chief regarding the fitness of firefighter applicants, except in the official summary report referred to in this section.

(8) Use of criminal history record information disseminated to the fire chief shall be limited to the purpose for which it was given and may not be disseminated further.

(Code 1965, § 2-57.1; Ord. No. 1098, 10-6-80; Ord. No. 3433, 12-1-15)

State Law reference— Dissemination of criminal history record information, Code of Virginia, § 19.2-389.

Sec. 12-27. - Authority of chief or other officer in charge when answering alarm or extinguishing fire.

(a) While the fire department or any volunteer fire company in the city is in the process of answering an alarm of fire or operating at an emergency incident where there is imminent danger or the actual occurrence of fire or explosion or the uncontrolled release of hazardous materials which threaten life or property and returning to the station, the fire chief or other officer in charge of such department or company at that time shall have the authority to maintain order at the emergency incident or its vicinity, including the immediate airspace, direct the actions of the firefighters at the incident, keep bystanders or other persons at a safe distance from the incident and emergency equipment, facilitate the speedy movement and operation of emergency equipment and firefighters, cause an investigation to be made of the origin and cause of the incident and, until the arrival of a police officer, direct and control traffic, in person or by deputy, and facilitate the movement of traffic. The fire chief or other officer in charge shall display his firefighter's badge or other proper identification. Notwithstanding any other provision of law, this authority shall extend to the activation of traffic-control signals designated to facilitate the safe egress and ingress of emergency equipment at a fire station.

(b) Any person refusing to obey the orders of the fire chief or his deputies or other officer in charge at the time, given pursuant to this section, shall be guilty of a Class 4 misdemeanor. The fire chief or other officer in charge shall have the power to make arrests for violation of the provisions of this section.

(Code 1965, §§ 16-1, 22-20; Ord. No. 2289, 8-23-94; Ord. No. 3433, 12-1-15; Ord. No. 3509, 6-20-17, eff. 7-1-17)

State Law reference— Similar provisions, Code of Virginia, § 27-15.1.

Sec. 12-27.1. - Service charge for non-emergency calls for service to which the fire department and/or department of emergency medical services are required to respond.

There is hereby established a service charge of one hundred fifty dollars ($150.00) to be paid by each residential owner upon the sixth and any subsequent non-emergency calls to which fire and/or emergency medical service departments are required to respond within a twelve month period.

There is hereby established a service charge of two hundred fifty dollars ($250.00) to be paid by each business, nursing home, intermediate care facility or any other healthcare entity upon the sixth and any subsequent non-emergency calls to which the fire and/or emergency medical services are required to respond within a twelve month period.

For the purpose of this code section, a non-emergency call is defined as a call for service that is not related to a fire or life, safety, or medical emergency, as determined by the department or departments responding to the call.

(Ord. No. 3486, 2-21-17)

Sec. 12-28. - Interference with firefighters, equipment, etc.

(a) It shall be unlawful for any person to assault or injure any firefighter who is in the performance of official duties.

(b) It shall be unlawful to interfere with, obstruct or restrict the mobility of, or block the path of travel of any fire department emergency vehicle or other fire fighting or rescue equipment, or to interfere with a firefighter in the discharge of his duty, or to interfere with, obstruct or hamper any fire department operation.

(c) It shall be unlawful for any person to damage, deface or render inoperable any fire department emergency vehicle or fire fighting equipment or apparatus without lawful authority.

(d) Any person violating any provision of this section shall be guilty of a Class 1 misdemeanor.

(Code 1965, § 16-2; Ord. No. 2289, 8-23-94)

Cross reference— Obstructing or interfering with city officers generally, § 23-7.

Sec. 12-28.1. - Impersonating firefighter, etc.

It shall be unlawful for any person to willfully impersonate, with the intent to make another believe he is, a firefighter, fire marshal or fire chief. A first offense conviction is a Class 1 misdemeanor.

(Ord. No. 2289, 8-23-94; Ord. No. 2708, 6-25-02; Ord. No. 3293, 6-11-13, eff. 7-1-13)

Sec. 12-29. - Loitering about fire or EMS stations

(a) No person shall loiter about any fire or EMS station unless he is a member or employee of the fire department or EMS department whose duties require his presence there.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

(Code 1965, § 16-3; Ord. No. 3433, 12-1-15)

Sec. 12-30. - Reserved.

Editor's note— Ord. No. 2880, adopted May 24, 2005, repealed former § 12-30 of the Code, which pertained to authority of the department to furnish copies of records, and fees therefor.

Secs. 12-31—12-40. - Reserved.

ARTICLE III. - FIRE PREVENTION CODE

Sec. 12-41. - Adopted.

Pursuant to the provisions of Code of Virginia, Chapter 9, Title 27, the fire department is designated and authorized to enforce that certain code known as the Virginia Statewide Fire Prevention Code, as promulgated by the Board of Housing and Community Development of the Commonwealth of Virginia, save and except such portions as may be modified or amended in this article, of which code a copy has been and is now filed in the office of the city clerk, and the same is hereby adopted and incorporated as fully as if set out at length herein and the provisions thereof shall be controlling within the limits of the city.

(Code 1965, § 16-5; Ord. No. 1768, 4-4-88; Ord. No. 2289, 8-23-94; Ord. No. 3433, 12-1-15)

Sec. 12-42. - Definitions.

The following words and terms, as used in the fire prevention code adopted by section 12-41, shall have the meanings ascribed to them below:

(1) Wherever the words "name of jurisdiction" are used, they shall mean this city.

(2) Wherever the term "fire official" is used, it shall mean the chief of the fire department of the city or his duly authorized representative.

(3) Wherever the term "legal counsel of the municipality" is used, it shall mean the city attorney of the city.

(Code 1965, § 16-6; Ord. No. 3433, 12-1-15)

Sec. 12-43. - Amendments.

(a) As authorized by Code of Virginia, § 27-97, the following provisions are enacted and made more restrictive than the 2009 Virginia Statewide Fire Prevention Code:

(1) *Overcrowding:* It shall be a Class I misdemeanor for any person to permit (i) overcrowding; (ii) the obstruction of aisles, passageways or other means of egress, including obstruction caused by people standing in aisles, passageway or other means of egress; or (iii) admittance of any person beyond the approved occupant load. In addition thereto, the code official, upon finding overcrowded conditions or obstruction in aisles, passageways or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, shall cause the occupancy, performance, presentation, spectacle

or entertainment to be stopped until such a condition or obstruction is corrected. The structure may be evacuated or the addition of any further occupants prohibited until the approved occupant load is reestablished or the obstruction has been removed.

(2) *Operator responsibility:* The operator or the person responsible for the operation of an assembly or educational occupancy shall check egress facilities before such building is occupied to determine compliance with this section. If such inspection reveals that any element of the required means of egress cannot be accessed, is obstructed, locked, fastened or otherwise unsuited for immediate utilization, admittance to the building shall not be permitted until necessary corrective action has been completed.

(Code 1965, 16-16; Ord. No. 1789, 6-20-88; Ord. No. 1814, 10-24-88; Ord. No. 1984, 6-25-90; Ord. No. 2289, 8-23-94; Ord. No. 2797, 1-13-04; Ord. No. 2889, 6-28-05; Ord. No. 3208, 11-22-11)

Sec. 12-43.1. - Shipbuilding, repair and lay-up.

Shipbuilding, repair and lay-up facilities shall be in conformance with National Fire Protection Association Pamphlet 312 (2006 edition) which is hereby adopted and incorporated herein, of which a copy has been and is now filed with the office of the city clerk.

(Ord. No. 2289, 8-23-94; Ord. No. 3208, 11-22-11)

Sec. 12-43.2. - Fireworks and pyrotechnic displays unlawful; exceptions.

(a) Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any firecracker, torpedo, sky rocket, sparkler, or other substance or device that contains any explosive or flammable compound or substance, and is intended or commonly known as fireworks, and which explodes, rises into the air or travels laterally, fires projectiles or discharges sparks into the air.

(b) The provision of this section shall not be applicable to (1) any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks or pyrotechnics, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit; or (2) any federal, state or local government animal or fowl management agency agents acting within the scope of their lawful duties. Such agents shall provide the fire marshall's office with at least twenty-four (24) hours notice of intent to possibly employ pyrotechnic tactics.

(c) The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored or held in violation of this section.

(d) Violation of any provision of this section shall constitute a Class 1 misdemeanor.

(Ord. No. 2289, 8-23-94; Ord. No. 3084, 5-26-09)

Sec. 12-43.3. - Accumulations of waste.

(a) Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any kind shall not be permitted to remain upon any roof or in any court, yard, vacant lot, alley, parking lot, open space, beneath a grandstand, pier, wharf or other similar structure. All weeds, grass, vines or other growth, when same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupant of the property.

(b) All combustible rubbish, oily rags or waste material, when kept within a building, shall be stored in approved containers. Storage shall not produce conditions that, in the opinion and judgement of the code official, will tend to create a nuisance or a hazard to the public health, safety or welfare.

(Ord. 2289, 8-23-94)

Sec. 12-43.4. - Storage of combustible or flammable materials.

The storage of combustible or flammable materials shall be confined to approved storage areas. Combustible or flammable materials shall not be stored under interior or exterior stairwells unless the area under the stairwell is protected by an approved fire suppression sprinkler system.

Sec. 12-43.5. - Reserved.

Editor's note— Ord. No. 3208, adopted November 22, 2011, repealed § 12-43.5, which pertained to filling stations; attendant required and derived from Ord. No. 2289, 8-23-94.

Sec. 12-44. - Appeal from action or decision under code.

Whenever an application for a permit has been disapproved or not granted or when it is claimed that the provisions of the fire prevention code adopted in this article do not apply or that the true intent and meaning in such code have been misconstrued or wrongly interpreted, the applicant or person aggrieved may appeal such refusal or decision to the board of building code appeals.

(Code 1965, § 16-7; Ord. No. 2289, 8-23-94)

Sec. 12-45. - New materials, processes or occupancies which may require permits.

The city manager, the fire chief and the building code administrator shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the fire prevention code adopted in this article. The fire chief shall post such lists in a conspicuous place in his or her office and distribute copies thereof to interested persons.

(Code 1965, § 16-8; Ord. No 2470, 2-10-98; Ord. No. 3433, 12-1-15)

Sec. 12-46. - Modifications.

The fire chief shall have the power to modify any of the provisions of the fire prevention code adopted in this article, upon application in writing by the owner or lessee or his duly authorized agent, when there practical difficulties in the way of carrying out the strict letter of such code, provided, that the spirit of such code shall be observed, public safety secured and substantial justice done. Such modifications shall be subject to the approval of the city manager. The particulars of such modifications, when granted or allowed, and the decision of the fire chief thereon shall be entered upon the records of the fire department and a signed copy shall be furnished the applicant.

(Code 1965, § 16-9; Ord. No. 3433, 12-1-15)

Sec. 12-47. - Conflict with other ordinances.

In the event of conflict or inconsistency between the provisions of the fire prevention code adopted in this article and the provisions of any other ordinance of the city, the more stringent provisions shall prevail.

(Code 1965, § 16-10)

Sec. 12-48. - Availability of copies.

Copies of the fire prevention code adopted in this article may be obtained at the office of the fire department during regular business hours.

(Code 1965, § 16-11; Ord. No. 3433, 12-1-15)

Sec. 12-49. - Violations.

(a) Any person who shall violate any of the provisions of the fire prevention code adopted in this article, or who fails to comply therewith, or who shall violate or fail to comply with any order or made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed therefor, shall, for each and every such violation and noncompliance, respectively, be guilty of a Class 1 misdemeanor.

(b) The imposition of one penalty for any violation of the fire prevention code adopted in this article shall not excuse the violation or permit it to be continued and all persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(c) The imposition of a penalty for a violation of the fire prevention code adopted in this article shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1965, § 16-12)

Sec. 12-49.1. - Permits and inspections fees.

Fees for permits or inspections required by this article or the Virginia Statewide Fire Prevention Code are hereby levied in accordance with the following schedule:

(1) Annual fire inspection fee $50.00

However, each business premise located within a structure shall be inspected independently of other areas located in the structure. This fee shall not be levied for the inspection of City or Virginia Beach City Public School facilities.

(2) Re-inspection fee for second re-inspection and every subsequent inspection to demonstrate compliance with the Virginia Statewide Fire Prevention Code 50.00

No fee shall be charged for any necessary first re-inspection. This fee shall not be levied for the inspection of City or Virginia Beach City Public School facilities.

(3) Liquid- or gas-fueled vehicles or equipment in assembly buildings/Motor vehicle display - permit fee per event site (other than dealership) 50.00

(4) Fire watch fee (valid for seven (7) days) - required no less than forty-eight (48) hours or by the first business day after the failure of a fire protection system 25.00

An exception to this permit requirement may be granted by the fire marshal or his designee for delays encountered in obtaining equipment required for repairs.

(5) Open burning/Bonfire - permit fee per event site 50.00

(6) Open flames and candles/Removing paint with torch - permit fee per site 50.00

(7) Open burning/Land clearing pit burn - permit fee per month per pit burner 50.00

(8) Assembly or education occupancies: .....

a. Annual permit fee for facilities with fifty (50) to ninety-nine (99) persons 50.00

b. Annual permit fee for facilities with one hundred (100) to five hundred (500) persons 100.00

c. Annual permit fee for facilities with five hundred (500) or more persons 150.00

d. ABC inspection fee 50.00

e. Recalculation of occupancy load fee 50.00

(9) Aviation facilities/Airports, heliports and helistops - annual permit fee 100.00

(10) Floor finishing/Bowling establishments - annual permit fee for refinishing/resurfacing with flammable liquids 100.00

(11) Fruit and crop ripening or coloring processes - annual permit fee 100.00

(12) Dry cleaning plant (flammable or non-flammable chemicals) - annual permit fee 100.00

(13) Combustible dust-producing operations/Dust explosion hazard - annual permit fee for any process creating dust explosion hazard 100.00

(14) Spraying or dipping/Application of flammable finishes - annual permit fee for the use or handling of more than one (1) gallon per day 100.00

(15) Fumigation and thermal insecticidal fogging fee - per location 50.00

(16) HPM facilities/Hazardous production - annual permit fee for the use, storage or handling of any hazardous production material 100.00

(17) Lumber yard/woodworking plant - annual permit fee for storage exceeding one hundred thousand (100,000) board feet 100.00

(18) Organic coatings - annual permit fee for production of greater than one (1) gallon per day 100.00

(19) Temporary membrane structures, tents and canopies - annual permit fee for tents greater than nine hundred (900) square feet or air supported structures 50.00

(20) Waste handling/Wrecking yard, junk yard or waste material plant: .....

a. Annual permit fee 100.00

b. Annual permit fee for facilities with waste material greater than two thousand five hundred one (2,501) cubic feet .....100.00.

(21) Cutting and welding: .....

a. Annual permit fee for all welding 50.00

b. Annual permit fee for use of greater than two hundred (200) pounds calcium carbide 100.00

c. Annual permit fee for use of greater than two thousand (2,000) feet cubic flammable compressed gas 100.00

d. Annual permit fee for use of greater than five (5) pounds carbide in acetylene generator 100.00

(22) Aerosol products - annual permit fee for storage or display of greater than five hundred (500) pounds of level 2 or 3 aerosols 50.00

(23) Cellulose nitrate film: .....

a. Annual permit fee for storage twenty-six (26) or more pounds 50.00

b. Annual permit fee for any manufacturer using cellulose nitrate 50.00

(24) Combustible fibers - annual permit fee for storage of greater than one hundred (100) cubic feet 50.00

(25) Compressed gas storage: .....

a. Annual permit fee for storage greater than seven hundred fifty (750) cubic feet of flammable gas 50.00

b. Annual permit fee for storage of amounts greater than six thousand (6,000) cubic feet of non-flammable gas 50.00

c. Annual permit fee for storage of amounts greater than two hundred (200) cubic feet of corrosive gas 50.00

d. Annual permit fee for storage of any amount of toxic or highly toxic gas 50.00

(26) Hazardous materials/Corrosives (storage and handling): .....

a. Annual permit fee for use, storage or handling of amounts greater than one thousand (1,000) pounds of solids 50.00

b. Annual permit fee for use, storage or handling of amounts greater than fifty-five (55) gallons of liquids 50.00

(27) Cryogenic fluids: .....

a. Annual permit fee for production or sale of any amount 100.00

b. Annual permit fee for storage of greater than five hundred (500) gallons of non-flammable, non-toxic cryogenic liquids 50.00

c. Annual permit fee for storage of greater than ten (10) gallons of liquid oxygen 50.00

d. Annual permit fee for storage of greater than ten (10) gallons of flammable cryogenic liquids 50.00

e. Annual permit fee for storage of greater than ten (10) gallons of cryogenic oxidizer .....50.00.

(28) Explosives/ammunition and blasting agents - annual permit fee for storage, manufacturing, possession, sale or any other disposition of any amount 50.00

(29) Explosives/Fireworks/pyrotechnics: .....

a. Permit fee per display for outside aerial display 450.00

b. Permit fee for proximate audience 250.00

c. Permit fee for storage or sales 50.00

(30) Flammable and combustible liquids: .....

a. Annual permit fee for storage, use, handling or processing 50.00

b. Temporary AST permit fee 50.00

c. Service station or repair garage permit fee 50.00

d. UST closure or temporary out of service permit fee 50.00

(31) Flammable solids - annual permit fee for storage of amounts greater than one hundred (100) lbs. 50.00

(32) Highly toxic and toxic solids and liquids: .....

a. Annual permit fee for use, storage or handling of any amount of highly toxic solids or liquids 50.00

b. Annual permit fee for use, storage or handling of amounts greater than one hundred (100) pounds of toxic solids 50.00

c. Annual permit fee for use, storage or handling of amounts greater than ten (10) gallons of toxic liquids 50.00

(33) LP-gas/Liquified petroleum gases - annual permit fee for storage and use of LP-gas 50.00

(34) Hazardous materials/Organic peroxides: .....

a. Annual permit fee for use, storage or handling of any amount of class I or II 50.00

b. Annual permit fee for use, storage or handling of amounts greater than ten (10) pounds of class III solids and one (1) gallon of class III liquids 50.00

(35) Hazardous materials/Liquid and solid oxidizers: .....

a. Annual permit fee for use, storage or handling of any amount of class III or IV 50.00

b. Annual permit fee for use, storage or handling of amounts greater than one hundred (100) pounds of class II solids or ten (10) gallons of class II liquids 50.00

c.

Annual permit fee for use, storage or handling of amounts greater than five hundred (500) pounds of class I solids or fifty-five (55) gallons of class I liquids 50.00

(36) Fumigation and thermal insecticidal fogging/Pesticides - annual permit fee for use, storage, or handling of any amount subject to regulation under the Statewide Fire Prevention Code 50.00

(37) Hazardous materials/Pyrophoric material - annual permit fee for use, storage or handling of any amount 50.00

(38) Unstable liquid or solid (reactive) materials: .....

a. Annual permit fee for use, storage or handling of any amount of class III or IV 50.00

b. Annual permit fee for use, storage or handling of amounts greater than fifty (50) pounds of class II solids and five (5) gallons of class II liquids 50.00

(39) Water reactive material: .....

a. Annual permit fee for use, storage or handling of any amount of class III 50.00

b. Annual permit fee for use, storage or handling of amounts fifty (50) pounds or greater of class II solids 50.00

c. Annual permit fee for use, storage or handling of amounts ten (10) gallons or greater of class II liquids 50.00

The fees imposed pursuant to this section shall be used to defray the cost of enforcement and appeals under the Statewide Fire Prevention Code. The city manager or his designee may waive any of these fees for permits required in the performance of a contract with the City of Virginia Beach, provided that a written waiver is filed with the fire department along with a copy of the contract.

(Ord. No. 2696, 5-14-02; Ord. No. 2737, 2-25-03; Ord. No. 3014, 5-13-08; Ord. No. 3124, 4-13-10; Ord. No. 3208, 11-22-11; Ord. No. 3348, 5-13-14, eff. 7-1-14)

ARTICLE IV. - SMOKE DETECTORS

Sec. 12-50. - Where required.

In accordance with the authorities specified in section 15.1-29.9, Code of Virginia, smoke detectors shall be installed in the following structures:

(a) Any buildings containing one or more dwelling units.

(b) Hotels or motels providing overnight sleeping accommodations to one or more persons.

(c) Rooming houses, group homes, dormitories and other public lodgings regularly used to provide overnight sleeping accommodations.

(Ord. No. 1226, 9-28-81; Ord. No. 1477, 8-13-84)

Sec. 12-51. - Definitions.

(a) *Smoke detectors* shall mean mechanical devices powered by batteries or alternating current capable of sounding an audible alarm upon sensing visible or invisible products of combustion meeting the specifications as contained in that pamphlet known as Underwriter's Laboratories Fire Protection Equipment Directory, date January 1981, a copy of which is on file in the office of the city clerk.

(b) *Owner* shall mean one or more persons, jointly or severally, in whom is vested:

(1) All or part of the legal title to the property, or

(2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgage in possession.

(c) *Managing authority* shall mean an individual responsible for the management or maintenance and upkeep of property for said owners, recognized either by agreement or contract for such services.

(d) *Dwelling unit* shall mean a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(Ord. No. 1226, 9-28-81; Ord. No. 2064, 5-14-91).

Sec. 12-52. - Installation requirements.

(a) The smoke detectors installed must be capable of sensing visible or invisible products of combustion and, when activated, the detectors shall provide an alarm suitable to warn the occupants of the building. Smoke detectors installed in dwelling units of said buildings need only sound or alarm suitable to warn occupants within the individual dwelling unit.

(b) Appropriate permits as required must be secured for the installation of the smoke detectors powered by alternating current; however, no fee will be charged for the permit.

(c) The smoke detectors shall be installed in locations specified in applicable sections of the Virginia Uniform Statewide Building Code.

(Ord. No. 1226, 9-28-81; Ord. No. 1477, 8-13-84)

Sec. 12-53. - Responsibilities of owner/tenant.

(a) The owner of a multi-family residential building containing four (4) or more dwelling units shall provide smoke detectors as required by section 12-52(c) in hallways, stairwells and other public or common areas, and shall maintain them in good working order.

(b) The owner of a dwelling unit, which is rented or leased in any building containing any one or more dwelling units, shall furnish the tenant at the beginning of each tenancy and at least annually thereafter with written certification that all smoke detectors required by section 12-52(c) are present, have been inspected and are in good working order.

(c) The tenant shall be responsible for reasonable care of the smoke detector in accordance with section 55-248.16, Code of Virginia, and for the interim testing and battery replacement, and for providing written notice to the owner requesting the repair of any malfunctioning smoke detector. In accordance with section

55-248.13, Code of Virginia, the owner shall be obligated to provide and pay for service of any malfunctioning smoke detector. Such service, or replacement of the unit, must occur within five (5) days of receipt of written notice from the tenant that a smoke detector is. malfunctioning.

(d) The owner of a dwelling unit, which is rented or leased in any building containing one or more dwelling units shall provide written notification to the tenant of the responsibilities and duties proposed by subsection (c) of this section.

(e) In those instances where responsibilities for maintenance and upkeep of dwelling units has been transferred from the owner(s) to a managing authority, the managing authority shall be charged with the responsibility imposed by this section in addition to the owner(s).

(Ord. No. 1226, 9-28-81; Ord. No. 2064, 5-14-91)

Sec. 12-54. - Enforcement.

The fire marshal, or his duly authorized representatives, are authorized to administer and enforce this article.

(Ord. No. 1226, 9-28-81; Ord. No. 2064, 5-14-91)

Sec. 12-55. - Article not exemption from compliance with code.

Nothing in this article shall excuse any owner for the required buildings from compliance with all other applicable provisions of the Virginia Uniform Statewide Building Code in chapter 8 of the Code of the City of Virginia Beach pertaining to buildings and building regulations.

(Ord. No. 1226, 9-28-81)

Sec. 12-56. - Reserved.

Editor's note— Ord. No. 2064, adopted May 14, 1991, deleted former § 12-56, relative to compliance upon sale or rental, which derived from Ord. No. 1477, adopted Aug. 13, 1984.

Chapter 13 - FOOD AND FOOD ESTABLISHMENTS

> *Footnotes:*
> *--- (**1**) ---*
> ***Cross reference—** Taking glass containers on beach or adjacent streets, § 6-6; defrauding restaurants and other food establishments, § 23-34; barred or locked premises upon which food or drink is served, § 23-53; food regulations at public swimming pools, § 34-66; tax on purchase of food at restaurants, § 35-136 et seq.*
> ***State Law reference—** Food and drink generally, Code of Virginia, § 3.1-361 et seq.*

ARTICLE I. - FOOD SERVICE MANAGER'S CERTIFICATION

Sec. 13-1. - Purpose.

The purpose of this article is to require certification of supervisory personnel of food service establishments, so that supervisory personnel shall have knowledge of safe techniques for storage, preparation, display and service of foods with the underlying purpose of preventing foodborne illness and protecting the public health and so that supervisory personnel shall have knowledge to train employees under their supervision regarding same.

(Ord. No. 1774, 5-2-88)

Sec. 13-2. - Rules and regulations for administration and enforcement.

The director of public health or his/her designee is responsible for the enforcement of this article. The director of public health is hereby authorized to make and adopt such rules and regulations as he/she may deem necessary for the administration and enforcement of this article, which rules and regulations shall not be in conflict with or an enlargement of any of the provisions of this article.

(Ord. No. 1774, 5-2-88)

Sec. 13-3. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.

(a) *Food* means any raw, cooked, or processed, edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(b) *Health authority* means the director of the department of public health or his authorized representative.

(c) *Food service manager* means the certificate holder, individuals having supervisory or management duties and any other person working in a food service establishment who may be in charge of its food handling operation.

(d) *Foodborne illness* means an incident in which two (2) or more persons experience a similar illness, usually gastrointestinal in nature, after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness.

(e) *Food service establishment* means any place where food is prepared or provided and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place, regardless of whether consumption is on or off the premises and regardless of whether or not there is a charge for the food. The term also includes retail food stores, mobile food units, and pushcarts. The term does not include private homes where food is prepared or served without compensation for individual family consumption, the location of food vending machines and supply vehicles.

(f) *Prepackaged* means contained in bottle, can, carton, secure wrapping or other types of containers and includes both hermetically and nonhermetically sealed packaging.

(g) Temporary food service establishment means a food service establishment that operates at a fixed location for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(h) *Risk assessment* means an evaluation of the potential for a foodborne illness to occur in a food service establishment based on a hazard analysis of the food.

(Ord. No. 1774, 5-2-88)

Sec. 13-4. - Food service manager; responsibility; certification.

(a) After May 1, 1989, no person shall operate a food service establishment unless its food handling operation is under the immediate control of a person holding a valid food service manager's certification. This shall require that a certified food manager be present during a minimum of eight (8) hours of operation per operating day in each food service establishment. The manager must be a full-time employee of the food service establishment in question.

(b) The food service manager shall be responsible for training of food service personnel in sanitary food-handling procedures. Written documentation of a training program and training records of individual employees shall be available upon request by the health department.

(c) In order to obtain a food service manager's certificate, a person shall apply to the Virginia Beach Health Department and show proof of having successfully completed a course in food protection which shall be approved by the health authority or a valid certificate of registration from the food protection certification program of the educational testing services center for occupational and professional assessment and payment of a fee of ten dollars ($10.00).

(d) Such certificates shall be issued in the name of an individual only and shall be valid for a period of five (5) years after the date of issuance.

(e) A food service manager's certificate shall be renewed for a five-year period upon payment of a fee of ten dollars ($10.00) to the Virginia Beach Health Department, and:

(1) Completing a refresher course in food protection which shall be approved by the health authority; or

(2) Take and pass the food protection certification program test of the educational testing services center for occupational and professional assessment.

(f) The health authority may require certified supervisory personnel to successfully complete additional training as specified by the health authority, or will require additional on-site coverage by certified food managers up to all hours of operation, when:

(1) The employing food service establishment has repeated or persistent violations of critical health code requirements and effective corrective action has not been taken over a reasonable period of time, as determined by the health authority; or

(2) The employing food service establishment is suspected with reasonable cause by the health authority as the source of a foodborne illness;

(3) Establishments maintaining a score of less than eighty (80) averaged over three (3) inspections.

All costs associated with required training or testing shall be the responsibility of the food service establishment or the individual food service manager.

(Ord. No. 1774, 5-2-88; Ord. No. 1823, 12-19-88; Ord. No. 3538, 4-3-18)

Sec. 13-5. - Proof of certification.

Each certified food service operator shall display his/her certificate in a prominent location in the establishment or carry it upon his/her person when on duty, as directed by the health authority.

(Ord. No. 1774, 5-2-88)

Sec. 13-6. - Certificate not transferable.

A food service operator's certificate is not transferable from one person to another.

(Ord. No. 1774, 5-2-88)

Sec. 13-7. - Exemptions.

Food service establishments that serve, sell or distribute only prepackaged foods and beverages are exempt from the provisions of this article. Temporary food service establishments that operate at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration may be exempted by the health authority. The health authority may also grant additional exemptions to this article on the basis of a risk assessment of a food service establishment.

(Ord. No. 1774, 5-2-88)

Sec. 13-8. - Penalty for violation.

Any owner or operator of a food service establishment found to be in violation of this article shall be guilty of a misdemeanor subject to a fine of up to one thousand dollars ($1,000.00). Each day that such a violation exists shall constitute a separate offense.

(Ord. No. 1774, 5-2-88)

Sec. 13-9. - Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this article.

(Ord. No. 1774, 5-2-88)

Secs. 13-10—13-15. - Reserved.

ARTICLE II. - RESERVED

Footnotes:

*--- (**2**) ---*

Editor's note— *Ord. No. 2964, adopted November 28, 2006, repealed §§ 13-16—13-22, which pertained to food handler's card for restaurant employees and derived from Ord. No. 999, §§ 20-206—20-210, 10-8-79.*

Secs. 13-16—13-35. - Reserved.

ARTICLE III. - STREET VENDORS FOOD PRODUCTS

Footnotes:
*--- (**3**) ---*
Cross reference— *Street vendors generally, § 33-6; peddlers and solicitors, Ch. 26; license tax for peddlers of food products, §§ 18-94—18-97.*

DIVISION 1. - GENERALLY

Sec. 13-36. - Violations of article.

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

Sec. 13-37. - Peddling ice cream, sandwiches, etc., in business areas.

No person shall peddle ice cream, ice confectioneries, candies, confections, bottled soft drinks, hot dogs or wrapped sandwiches from a cart, wagon, truck, automobile, basket or tray in any business area within the city. For the purpose of this section, the term "business area" shall mean an area within three hundred (300) feet of two (2) or more retail businesses.

(Code 1965, §§ 20-167, 20-191)

Secs. 13-38—13-45. - Reserved.

DIVISION 2. - VEHICLES USED FOR SALE OF ICE CREAM, ETC.

Footnotes:
*--- (**4**) ---*
Cross reference— *Motor vehicles and traffic, Ch. 21.*

Sec. 13-46. - Definition.

For the purpose of this division, the word "vehicle" shall mean a vehicle operated or used for dispensing or selling ice cream or other ice confectioneries, candies or confections therefrom.

(Code 1965, § 18-23)

Sec. 13-47. - Compliance with division.

No vehicle shall be operated or used for dispensing or selling ice cream or other ice confectioneries, candies or confections therefrom, except in compliance with the conditions set out in the following sections of this division.

(Code 1965, § 18-24)

Sec. 13-48. - Insurance.

Any person desiring to engage in the business of operating a vehicle as a vendor of ice cream or ice confectioneries, candies or confections on the streets or public ways of the city shall, before any vehicle is operated, secure and file with the city clerk a policy of liability insurance issued by a company authorized to do business in the stats, in form to be approved by the city attorney, indemnifying such person, in the sum of at least one hundred thousand dollars ($100,000.00) for injury to one person and three hundred thousand dollars ($300,000.00) for injury to more than one person for the same accident for which the owner, operator or driver of such vehicle may be held liable, and five thousand dollars ($5,000.00) for property damage.

(Code 1965, § 18-22)

Sec. 13-49. - Required signs and clearance lamps.

In addition to the requirements of chapter 21 of this Code and title 46.1 [46.2] of the Code of Virginia, each motor vehicle used by vendors of ice cream and other ice confectioneries, candies and confections in dispensing or selling such products on the streets of the city shall have the following equipment on and in operation:

(1) Yellow signs with black letters indicating "Frequent Stops", on the front and back of the vehicle, which shall be readable at a distance of one hundred (100) feet therefrom, such signs to be placed on the uppermost portion of the vehicle body.

(2) Yellow signs with black letters indicating "Caution Children", on the front and back of the vehicle, which shall be readable at a distance of one hundred (100) feet therefrom, such signs to be placed on the uppermost portion of the vehicle body.

(3) Three (3) amber clearance lamps, across the top of the vehicle, spaced evenly, not less than eight (8) inches nor more than fourteen (14) inches apart, designed in such a manner as to show amber light to the front only, such lights to be visible at a distance of five hundred (500) feet therefrom.

(4) Three (3) red clearance lamps across the top of the rear of the vehicle, spaced evenly, not less than eight (8) inches nor more than fourteen (14) inches apart, designed in such a manner as to show red light to the rear only, such lights to be visible at a distance of five hundred (500) feet therefrom.

(Code 1965, § 18-20)

Sec. 13-50. - Operation between 9:00 p.m. and 9:00 a.m. prohibited.

No vehicle governed by this division shall be operated on the streets of the city between the hours of 9:00 p.m. and 9:00 a.m. of any day.

(Code 1965, §§ 18-25, 20-168, 20-192)

Sec. 13-51. - Manner of stopping for dispensing or selling products.

When stopping to dispense or sell products, the driver or operator of a vehicle governed by this division shall pull such vehicle to the curb of the street or shoulder of the road or public way and cut off the motor of such vehicle, except when the operation of the motor is necessary for producing the product, and shall not be within one hundred (100) feet of any intersection.

(Code 1965, § 18-28)

Sec. 13-52. - Stopping on certain streets prohibited.

The driver or operator of a vehicle governed by this division shall not stop such vehicle, to dispense or sell products therefrom, on any street or public way having a speed limit above twenty-five (25) miles per hour.

(Code 1965, § 18-26)

Sec. 13-53. - Parking on street prohibited when operator not available to dispense products.

No vehicle governed by this division shall be parked on any street when the operator of such vehicle is not available to dispense products therefrom.

(Code 1965, § 18-27)

Sec. 13-54. - Use of bell to attract customers.

A bell shall be the only noise-making device that may be used on a vehicle governed by this division for the purpose of attracting customers. Reasonable use of such bell shall be made when the vehicle is in motion or while stopped. Continuous ringing of the bell for more than three (3) seconds at a time is prohibited.

(Code 1965, § 18-29)

ARTICLE IV. - PERMIT AND RELATED REQUIREMENTS FOR FOOD ESTABLISHMENTS

Sec. 13-60. - Food service establishments permit required.

Beginning July 1, 1996, as a prerequisite to operation, the owner or operator of every food service establishment regulated by the department of public health shall, on an annual basis, obtain a permit for each such establishment from the department, and pay a permit fee in the amount of forty dollars ($40.00). To obtain a food service establishment permit, an applicant must demonstrate that his or her establishment has undergone the annual assessment as provided by section 13-61 of this article.

(Ord. No. 2387, 5-14-96; Ord. No. 3538, 4-3-18)

Sec. 13-61. - Annual assessment of food service establishments.

Beginning July 1, 1996, every food service establishment regulated by the department of public health shall, on an annual basis, be assessed by the department prior to the issuance of any permit. Such assessment shall include an evaluation of the food service and its operation and a determination of the frequency of inspections required for the establishment.

(Ord. No. 2387, 5-14-96)

Sec. 13-62. - Penalty for operation without permit.

Any owner or operator of a food service establishment regulated by the department of public health which is found guilty of operating without the permit required by section 13-60 of this article shall be guilty of a misdemeanor and subject to a fine of up to one thousand dollars ($1,000.00).

(Ord. No. 2387, 5-14-96)

Chapter 14 - GAMBLING

Sec. 14-1. - Definitions.

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

Gambling device. A "gambling device" includes:

(1) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal operation or activity;

(2) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to, those depending upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, so that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subparagraph; and provided further, that machines that only sell or entitle the user to items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subparagraph.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations, nor are they any less gambling devices if, apart from their use or adaptability as such, they also sell or deliver something of value on a basis other than chance.

Illegal gambling. The making, placing or receipt of any bet or wager in the city of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or other event the outcome of which is uncertain or a matter of chance, whether such game,

contest or event occurs or is to occur inside or outside the limits of this city, shall constitute illegal gambling.

Operator. The term "operator" includes any person, firm or association of persons who or which conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

Other thing of value. The term "other thing of value" includes, but is not limited to, the purchase of a product, internet access or other thing, which purchase credits the purchaser with free points or other measureable units that may be (i) risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money or (ii) redeemed by the purchaser for money, and but for the free points or other measurable units, with regard to clauses (i) and (ii), the purchase of the product, Internet access, or other thing (a) would be of insufficient value in and of itself to justify the purchase or (b) is merely incidental to the chance to win money.

(Ord. No. 3189, 6-28-11, eff. 7-1-11)

State Law reference— Similar provisions, Code of Virginia, § 18.2-325.

Sec. 14-2. - Illegal gambling generally.

Except as otherwise provided in this chapter, any person who illegally gambles shall be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.

(Code 1965, § 23-22; Ord. No. 1003, 11-5-79)

State Law reference— Similar provisions, Code of Virginia, § 18.2-326.

Sec. 14-3. - Winning by fraud.

If any person, while gambling, cheats or by fraudulent means wins or acquires for himself or another money or any other valuable thing, such person shall be fined no less than five (5) nor more than ten (10) times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this chapter.

State Law reference— Similar provisions, Code of Virginia, § 18.2-327.

Sec. 14-4. - Permitting gambling to continue in one's premises.

If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified a law-enforcement officer of the presence of such illegal gambling activity, such person shall be guilty of a Class 1 misdemeanor.

(Code 1965, §§ 23-23, 23-24)

State Law reference— Similar provisions, Code of Virginia, § 18.2-329.

Sec. 14-5. - Aiding or abetting operation of illegal gambling activity.

Any person, other than those specified in other sections of this chapter, who knowingly aids, abets or assists in the operation of an illegal gambling enterprise, activity or operation shall be guilty of a Class 1 misdemeanor.

(Ord. No. 1463, 7-2-84)

State Law reference— Similar provisions, Code of Virginia, § 18.2-330.

Sec. 14-6. - Illegal possession of gambling device.

A person is guilty of illegal possession of a gambling device when such person manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of, any gambling device, while believing or having reason to believe that such device is to be used in the advancement of any unlawful gambling activity. Illegal possession of a gambling device shall constitute a Class 1 misdemeanor.

State Law reference— Similar provisions, Code of Virginia, § 18.2-331.

Sec. 14-7. - Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise.

All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law-enforcement officer or which shall lawfully come into such officer's custody, shall be forfeited to the city by order of the court in which a conviction under this chapter is obtained. Such court shall order all money so forfeited to be paid over to the city and, by order, shall make such disposition of other property so forfeited as the court deems proper, including the award of such property to any city or state agency or charitable organization for lawful purposes; or, in case of the sale thereof, the proceeds therefrom to be paid over to the city. Such forfeiture shall not extinguish the rights of any person, without knowledge of the illegal use of such property, who is the lawful owner or who has a lien on the same which has been perfected as provided by law.

State Law reference— Similar provisions, Code of Virginia, § 18.2-336.

Sec. 14-8. - Certain acts not deemed "consideration" in prosecution under chapter.

In any prosecution under this chapter, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding; or any one or more thereof, where no charge is made to, paid by, or any purchase required of him in connection therewith.

State Law reference— Similar provisions, Code of Virginia, § 18.2-332.

Sec. 14-9. - Exceptions from chapter—Contests of speed or skill.

(a) Nothing in this chapter shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose, or dependent upon their position or score at the end of such contest.

(b) Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant other than the contestant purported to be entered or knowingly and fraudulently enters a contestant in a class in which such contestant does not belong, shall be guilty of a Class 3 misdemeanor.

State Law reference— Similar provisions, Code of Virginia, § 18.2-333.

Sec. 14-10. - Same—Games of chance in private residences.

Nothing in this chapter shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and that there is no operator, as defined in section 14-1.

State Law reference— Similar provisions, Code of Virginia, § 18.2-334.

Sec. 14-11. - Same—Bingo games and raffles permitted by law.

Nothing in this chapter shall apply to any bingo game or raffle conducted pursuant to and in accord with the provisions of sections 18.2-340.1 through 18.2-340.12 of the Code of Virginia and article IV of chapter 4 of this Code.

Sec. 14-12. - Immunity of witness testifying in prosecution under chapter; compulsory testimony.

No witness, called by the city or by the court, giving evidence in any prosecution under this chapter, shall ever be prosecuted for the offense concerning which such witness testifies. Such witness shall be compelled to testify and for refusing to do so may be punished for contempt.

State Law reference— Similar provisions, Code of Virginia, § 18.2-337.

Chapter 15 - HOTELS AND SIMILAR ESTABLISHMENTS

Footnotes:
*--- (**1**) ---*
***Cross reference—** Housing code generally, ch. 16; license tax for boarding houses and tourist homes, § 18-64; license tax for hotels, motels, etc., § 18-85; defrauding hotels, motels, etc., § 23-34; tax on transients obtaining board or lodging, § 35-158 et seq.*
***State Law reference—** Hotels, Code of Virginia, title 35.1.*

Sec. 15-1. - Definitions.

The following words, when used in this chapter, shall have the following meanings, respectively, except in cases where the context clearly indicates a different meaning:

Lodging place means any bed and breakfast, campground, condominium, hotel, inn, motel, rooming house, time share business, tourist cabin, tourist camp, tourist home or similar establishment within the city which offers lodging, for compensation, to any transient.

Public safety officer means any police officer, the fire marshal, and any deputy or assistant appointed by the fire marshal pursuant to section 12-25 of this Code.

Transient means any person who, for a period of time not exceeding thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging in any lodging place.

(Code 1965, § 35A-5; Ord. No. 1378, 6-20-83; Ord. No. 2589, 6-27-2000)

Sec. 15-2. - Violations of chapter.

Any person who violates any provision of this chapter shall be guilty of a class 1 misdemeanor.

(Code 1965, § 35A-4; Ord. No. 1378, 6-20-83; Ord. No. 2589, 6-27-2000)

Sec. 15-3. - Numbering of rooms.

Whenever a lodging place has individual sleeping or living room units, each unit shall be numbered or designated in a plain, conspicuous manner. Such number or designation shall be placed on the outside of the outer door of each unit, and no two (2) units shall bear the same number.

(Code 1965, § 35A-4; Ord. No. 1378, 6-20-83; Ord. No. 2589, 6-27-2000)

Sec. 15-4. - Rate advertisements.

Except in those instances where the same rates apply to all units, apartments and/or rooms in a lodging place at all times, without regard to seasons, no person shall display or cause to be displayed in the city any sign or signs, which may be seen from a public highway or street, which sign or signs include, in dollars and cents, a statement relating to the rates charged for accommodations at a lodging place, unless such sign or signs include, in letters and figures of similar size and prominence, the following additional information:

(1) The total number of units, apartments or rooms in the lodging place and the actual number thereof available for rental and occupancy at each rate quoted.

(2) Whether the rates quoted are for single or multiple occupancy, where such fact affects the rates charged.

(3) The dates during which such rates are in effect, where such dates affect the rates charged.

The rates displayed on such sign or signs shall in each instance coincide with the rates posted in the units, apartments and/or rooms of the lodging place and such sign or signs shall not have thereon rates for any accommodations not offered to the public or any false, untrue, misleading, deceptive or fraudulent statement, representation or information relating to rates.

(Code 1965, § 35A-4.1; Ord. No. 1378, 6-20-83; Ord. No. 2589, 6-27-2000)

Cross reference— Advertising, Ch. 3.

Sec. 15-5. - Guest register generally.

(a) Every person conducting any lodging place in the city shall at all times keep and maintain therein a guest register, in which shall be inscribed, electronically, or with indelible ink, the name and valid home address of each guest or person renting or occupying a room or camping space therein, as well as the vehicle description and license plate information of any vehicle being used by such guest. Such register shall be signed by the person renting a room or camping space, or by someone signing by his or her authority. The proprietor of such lodging place, or his or her agent, shall thereupon enter or write, electronically, or with indelible ink, opposite such name so registered, the number of each room or camping space assigned to and occupied by such guest, together with the date(s) and time(s) when such room or camping space is rented. Until all of the aforesaid entries have been made in such register, no guest shall be suffered or permitted to occupy any room in such lodging place. When the occupant of a room or camping space so rented vacates and surrenders the same, it shall be the duty of the proprietor of the lodging place, or his or her agent, to enter into such registry the time the room was surrendered by the occupant and maintain for one year, a record of the date(s) when such room or camping space was vacated and surrendered.

(b) The guest vehicle parking area of every lodging place shall be accessible at any and all reasonable times to any public safety officer in the performance of his or her duties.

(Code 1965, § 35A-2; Ord. No. 1378, 6-20-83; Ord. No. 1933, 10-30-89; Ord. No. 2589, 6-27-2000; Ord. No. 3438, 4-5-16)

Sec. 15-6. - False registration by guests

It shall be unlawful for any person to write, or cause to be written, or knowingly permit to be written, in any guest register in any lodging place in the city, any other or different name or designation than the true name of the person registered therein, or the name by which such person is generally known, or to enter false information regarding any vehicle.

(Code 1965, § 35A-3; Ord. No. 1378, 6-20-83; Ord. No. 1933, 10-30-89; Ord. No. 2589, 6-27-2000)

Sec. 15-7. - Maximum occupancy.

It shall be unlawful for any person conducting or managing any lodging place in the city to permit any room or space to be occupied in excess of the maximum occupant load for such room or space, as established by the fire marshal in accordance with the Virginia Uniform Statewide Building Code.

(Ord. No. 2245, 8-10-93; Ord. No. 2589, 6-27-2000)

Chapter 16 - HOUSING AND BUILDING MAINTENANCE CODE

Footnotes:

*--- **(1)** ---*

***Cross reference—** Buildings and building regulations, ch. 8; fire prevention and protection, ch. 12; hotels and similar establishments, ch. 15; mobile homes, ch. 19; sewers and sewage disposal, ch. 28; swimming pools, ch. 34; water supply, ch. 37; zoning ordinance, app. A; subdivision ordinance, app. B.*

***State Law reference—** Authority of city to regulate the light, ventilation, sanitation, etc., of buildings, Code of Virginia, § 15.1-869.*

ARTICLE I. - IN GENERAL

Sec. 16-1. - Title.

The provisions of this chapter shall constitute and be designated the "Virginia Beach Building Maintenance Code" and may be so cited.

(Code 1965, § 19-2; Ord. No. 1652, 10-27-86; Ord. No. 1922, 10-2-89)

Editor's note— Ordinance No. 1922, adopted Oct. 2, 1989, amended § 16-1 by changing the title of ch. 16 from "Virginia Beach Housing and Property Maintenance Code" to "Virginia Beach Building Maintenance Code." In order to maintain the alphabetical arrangement of chapters used herein, the editor has entitled ch. 16 as the "Housing and Building Maintenance Code."

Sec. 16-2. - Definitions.

The following words, terms and phrases shall have the following meanings when used in this article:

Code enforcement administrator means the code enforcement administrator of the department of housing and neighborhood preservation or his designee.

Dwelling unit means a building or structure or part thereof that is used for a home or residence by one (1) or more persons who maintain a household.

Owner means the person or entity shown as such on the current real estate assessment books or current real estate assessment records of the city.

Residential rental dwelling unit means a dwelling unit that is leased or rented to one (1) or more tenants and that is subject to the provisions of this article.

(Ord. No. 2884, 6-14-05)

Editor's note— Ord. No. 1923, adopted Oct. 2, 1989, repealed § 16-2, definitions, as derived from Code 1965, § 19-1, and Ord. No. 1653, adopted Oct. 27, 1986. Ord. No. 2884, adopted June 14, 2005, added new provisions as § 16-2.

Sec. 16-3. - Purpose of chapter.

The purpose of this chapter is to provide minimum standards and requirements for the maintenance of housing and other structures in the city, in accordance with the provisions of the Virginia Uniform Statewide Building Code for Existing Structures, and in the event any law or other ordinance of the city requires higher standards or more stringent requirements than are required by this chapter, the provisions of such law or other ordinance shall prevail, except to the extent that such law or other ordinance shall conflict with such code or any provision thereof.

(Code 1965, § 19-3; Ord. No. 1654, 10-27-86; Ord. No 2467, 1-13-98)

Sec. 16-3.1. - Adoption of state building code.

The Virginia Uniform Statewide Building Code for Existing Structures, including all future amendments thereto and editions thereof, and all model codes and standards or portions thereof which are, or may hereafter be, referenced, adopted, or incorporated therein, is hereby adopted and incorporated by reference into this chapter, as if fully set forth herein.

(Ord. No. 1657, 10-27-86; Ord. No 2467, 1-13-98)

Sec. 16-4. - Reserved.

Editor's note— Ord. No. 1659, adopted Oct. 27, 1986, repealed § 16-4, which section pertained to conflict of ch. 16 provisions with other ordinances and was derived from Code 1965, § 19-23.

Sec. 16-5. - Reserved.

Editor's note— Ord. No. 1887, adopted July 3, 1989, repealed § 16-5, pertaining to effect of chapter on private agreements and derived from § 19-22 of the 1965 Code.

Sec. 16-6. - Rules and regulations for administration and enforcement of chapter.

The director of housing and neighborhood preservation is hereby authorized to make and adopt such rules and regulations as he may deem necessary for the administration and enforcement of this chapter, which rules and regulations shall not be in conflict with or an enlargement of any of the provisions of this chapter.

(Code 1965, § 19-10; Ord. No. 1922, 10-2-89)

Sec. 16-7. - Police powers for enforcement of chapter.

The director of housing and neighborhood preservation, the code enforcement administrator and all inspectors of the department of housing and neighborhood preservation are hereby invested with such police powers as are necessary for the enforcement of this chapter.

(Code 1965, § 19-13; Ord. No. 1655, 10-27-86; Ord. No. 1922, 10-2-89; Ord. No 2467, 1-13-98)

Sec. 16-8. - Obstructing or interfering with enforcement of chapter.

No person shall obstruct or interfere with the director of housing and neighborhood preservation, the code enforcement administrator or any inspector of the department of housing and neighborhood preservation in the enforcement of this chapter or in any matter relating thereto.

(Code 1965, § 19-24; Ord. No. 1655, 10-27-86; Ord. No. 1922, 10-2-89; Ord. No 2467, 1-13-98)

Sec. 16-9. - Reserved.

Editor's note— Section 16-9, pertaining to inspection of dwellings and rooming units and derived from Code 1965, § 19-14, was repealed by Ord. No. 1659, adopted Oct. 27, 1986.

Sec. 16-10. - Local planning authority inspections for Veterans Administration.

The director of housing and neighborhood preservation may conduct local planning authority inspections for the Veterans Administration. The fee for each such inspection conducted shall be thirty dollars ($30.00); provided, however, that there shall be charged an additional fee in the amount of fifteen dollars ($15.00) in the event repairs or corrections are required and have not been completed by the time of reinspection.

(Code 1965, § 19-10.1; Ord. No. 1656, 10-27-86; Ord. No. 1922, 10-2-89)

Sec. 16-11. - Violations of chapter generally.

(a) (1) Except as otherwise provided herein, any owner or any other person who shall violate any provision of this chapter or who shall fail, refuse or neglect to comply in all respects with the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than twenty-five hundred dollars ($2,500.00).

(2) Additionally, if the violation concerns a residential unit and if the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in order to comply with the provisions of this chapter. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Any person convicted of a second offense committed within less than five (5) years after a first offense under this chapter shall be punished by a fine of not less than one thousand dollars ($1,000.00) nor more than twenty-five hundred dollars ($2,500.00). Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense under this chapter shall be punished by a fine of not less than five hundred dollars ($500.00) nor more than twenty-five hundred dollars ($2,500.00). Any person convicted of a third or subsequent offense involving the same property committed within ten (10) years of an offense under this chapter after having been at least twice previously convicted shall be punished by confinement in jail for not more than ten (10) days and a fine of not less than twenty-five hundred dollars ($2,500.00) nor more than five thousand dollars ($5,000.00), either or both. No portion of the fine imposed for such third or subsequent offense committed within ten (10) years of an offense under this chapter shall be suspended.

(3) Except as otherwise provided, each day that a violation continues shall constitute a separate offense.

(b) (1) Any owner or any other person who violates any provision of this chapter relating to the removal or the covering of lead-based paint which poses a hazard to the health of pregnant women and children under the age of six (6) years who occupy the premises shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than twenty-five hundred dollars ($2,500.00). If the court convicts pursuant to this subsection and sets a time by which such hazard must be abated, each day the hazard remains unabated after the time set for the abatement has expired shall constitute a separate violation.

(2)

Upon a reasonable showing to the court by a landlord that such landlord is financially unable to abate the lead-based paint hazard, the court shall order any rental agreement related to the affected premises terminated effective thirty (30) days from the entry of the court order. For purposes of the preceding sentence, termination of the rental agreement shall not be deemed noncompliance by the landlord.

(3) As used in this subsection, the term "landlord" means the owner, lessor or sublessor of a dwelling unit or the building of which such dwelling unit is a part; and "landlord" also means a manager of the premises who fails to disclose the name of such owner, lessor or sublessor.

(c) Except as otherwise provided, conviction of a violation of any of the provisions of this chapter shall not preclude the institution of legal proceedings to restrain, correct or abate such violation or any other remedy at law or in equity.

(Code 1965, § 19-25; Ord. No. 1658, 10-27-86; Ord. No. 1888, 7-3-89; Ord. No. 2248, 10-12-93; Ord. No. 2608, 8-22-00; Ord. No. 2884, 6-14-05)

Sec. 16-12. - Reserved.

Editor's note— Ord. No. 2884, adopted June 14, 2005, repealed former § 16-12 of the Code in its entirety, which pertained to certificates of compliance and inspections of certain dwellings and dwelling units and derived from Ord. No. 1886, adopted July 3, 1989; Ord. No. 2049, adopted April 2, 1991; Ord. No. 2248, adopted Oct. 12, 1993; and Ord. No. 2289, adopted Aug. 23, 1994.

Sec. 16-12.1. - Establishment of rental inspection districts.

(a) The city council may, by ordinance, designate one (1) or more areas of the city as rental inspection districts after holding a public hearing thereon. Notice of the hearing shall be published once per week for two (2) successive weeks in a newspaper of general circulation. The city council shall, prior to designating any such district, make the following findings:

(1) There is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection districts;

(2) The residential rental dwelling units within the designated rental inspection districts 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 code enforcement administrator to prevent deterioration, taking into account the number, age and condition of residential rental dwelling units inside the rental inspection districts; and

(3) The inspection of residential rental dwelling units inside the rental inspection districts is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.

(b) The city council may, by ordinance, designate individual residential rental dwelling units located outside of a designated rental inspection district as subject to the provisions of this article, based upon a finding that:

(1) There is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit;

(2) The individual residential rental dwelling units are either blighted or in the process of deteriorating; or

(3) There is evidence of violations of the building code that affect the safe, decent and sanitary living conditions for tenants in such individual dwelling units.

(c) A map showing the rental inspection districts described in this section shall be available for public inspection in the department of housing and neighborhood preservation.

(Ord. No. 2884, 6-14-05)

Editor's note— Ord. No. 2884, adopted June 14, 2005, repealed former § 16-12.1 of the Code in its entirety and added new provisions to the Code as § 16-12.1. Former § 16-12.1 pertained to certificates of exemption and derived from Ord. No. 1889, adopted July 3, 1989; and Ord. No. 2289, adopted Aug. 23, 1994.

Sec. 16-12.2. - Applicability.

(a) The provisions of this article shall apply to residential rental dwelling units located within the districts designated by the city council pursuant to section 16-12.1(a) and to such other individual residential rental dwelling units as the city council may designate pursuant to section 16-12.1(b).

(b) The following definitions shall apply to the sections regarding residential rental dwelling units and certificates:

(1) *Dwelling unit* is a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

(2) *Owner* is the person shown on the current real estate assessment books or current real estate assessment records.

(3) *Residential rental dwelling unit* is a dwelling unit that is leased or rented to one (1) 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.

(Ord. No. 2884, 6-14-05; Ord. No. 3230, 5-8-12)

Sec. 16-12.3. - Notification.

(a) After the designation of a rental inspection district or the designation of an individual residential rental dwelling unit, the code enforcement administrator shall make reasonable efforts to notify all owners of residential rental dwelling units located within the designated rental inspection districts and to the owners of individual residential rental dwelling units so designated, or their managing agents, of the adoption of the designation ordinance. Such notification shall also include information concerning, and an explanation of, the provisions of this article and the responsibilities of the owner pursuant to such provisions. No initial inspection of any residential rental dwelling unit shall be conducted until written notice of such inspection has been provided to the owner of such unit. The mailing of said notice by the code enforcement administrator shall be deemed sufficient notice for purposes of authorizing initial inspections pursuant to this article

(b)

The owner of any residential rental dwelling unit located within an inspection district shall, no later than sixty (60) days after the date of adoption of the ordinance, notify the code enforcement administrator in writing of any property that is used as a residential rental dwelling unit. Such notice and information shall be submitted on a form provided by the code enforcement administrator. Any owner who willfully fails to comply with the requirements of this subsection after having been given notice pursuant to subsection (a) hereof shall be subject to a civil penalty in the amount of fifty dollars ($50.00). Such civil penalty shall be in lieu of all other penalties.

(Ord. No. 2884, 6-14-05)

Sec. 16-12.4. - Inspection and certificate required.

(a) *Initial inspection*. The code enforcement administrator may, in conjunction with written notification pursuant to section 16-12.3, inspect the dwelling units in the designated rental inspection districts to determine whether the units are used as residential rental property and whether such units are in compliance with the provisions of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such property.

(b) *Periodic inspections*. Following the initial inspection of a residential rental dwelling unit, the code enforcement administrator may inspect any residential rental dwelling unit in a rental inspection district that is not otherwise exempted a maximum of once per calendar year.

(c) *Follow-up inspections.* Upon the initial or periodic inspection of a residential rental dwelling unit, the code enforcement administrator may require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the code enforcement administrator deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants.

(d) *Certificate.* All residential rental dwelling units located within the residential rental districts established by city council shall be required to obtain a certificate indicating that the residential rental dwelling unit is in compliance with the requirements of this ordinance and the Uniform Statewide Building Code.

(Ord. No. 2884, 6-14-05; Ord. No. 3230, 5-8-12)

Sec. 16-12.5. - Exemptions.

(a) If, upon the initial or a periodic inspection of a residential rental dwelling unit for compliance with the Uniform Statewide Building Code, the code enforcement administrator determines that there are no violations of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, he shall provide to the owner of such residential rental dwelling unit an exemption from the rental inspection ordinance for a minimum of four (4) years.

(b) Upon the sale of a residential rental dwelling unit, the code enforcement administrator may perform a periodic inspection within a reasonable time after the consummation of such sale.

(c) If a newly-constructed residential rental dwelling unit has been issued a certificate of occupancy within the four (4) years prior to the designation of the area as a rental inspection district, an exemption shall be granted for a minimum period of four (4) years from the date of the issuance of the certificate of occupancy.

(d)

The code enforcement administrator may revoke any such exemption above if the residential rental dwelling unit becomes in violation of the Uniform Statewide Building Code during the exemption period.

(Ord. No. 2884, 6-14-05)

Sec. 16-12.6. - Multi-family developments.

(a) If a multi-family development contains more than ten (10) residential rental dwelling units during the initial and annual inspections, the code enforcement administrator shall inspect a maximum of ten (10) percent of the number residential rental dwelling units, but not less than two (2) units.

(b) If, upon inspection of a sampling of dwelling units, the code enforcement administrator determines that there are violations of the Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multi-family development, the code enforcement administrator may inspect as many dwelling units as he deems reasonably necessary to enforce the building code.

(Ord. No. 2884, 6-14-05)

Sec. 16-12.7. - Issuance of certificate; fees.

(a) There shall be a fee of fifty dollars ($50.00) for the initial inspection and one reinspection on rental dwelling units in rental inspection districts created by city council. If subsequent follow-ups are required, there shall be charged a fee of fifty dollars ($50.00) per dwelling unit for each subsequent unit follow-up. No follow-up shall be performed, nor any certificate be issued, until all fees have been paid.

(b) No fee shall be required for those rental dwelling units participating in the following:

(1) The HUD Housing Choice Voucher program administered by the city;

(2) A program that provides ongoing rental subsidies from the city; or

(3) A program that requires more stringent inspection requirements than those referenced above due to prior funding or requirements imposed by the department of housing and neighborhood preservation.

(Ord. No. 2884, 5-14-05; Ord. No. 3017, 5-13-08; Ord. No. 3062, 12-9-08)

Sec. 16-12.8. - Effect on existing law.

(a) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(b) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(c) Nothing in this article shall be construed to limit the authority of the code enforcement administrator to perform housing inspections in accordance with applicable law.

(d) The city council may amend any provisions of sections 16-2, 16-12.1, 16-12.2, 16-12.3, 16-12.4, 16-12.5, 16-12.6, 16-12.7, 16-12.8 or 16-12.9 after holding a public hearing. Notice of the hearing shall be published once per week for two (2) successive weeks in a newspaper of general circulation.

(Ord. No. 2884, 6-14-05)

Sec. 16-12.9. - Violation; penalty.

Except as provided in section 16-12.3, any person failing to comply with the requirements of this article shall be subject to the penalties established in section 16-11, provided, however, that the code enforcement administrator may take such further and additional action as is allowed by law in order to obtain compliance with the requirements of this article.

(Ord. No. 2884, 6-14-05; Ord. No. 3230, 5-8-12)

Secs. 16-13—16-16. - Reserved.

Editor's note— Ord. No. 1659, adopted Oct. 27, 1986, repealed §§ 16-12—16-16 in their entirety. Prior to repeal, said sections pertained to permitting partial compliance with chapter in hardship cases; failure to comply with chapter not constituting violation in certain cases; abatement of nuisances generally; general procedure to correct violations; and immediate correction of violations in emergencies; and were derived from Code 1965, §§ 19-9, 19-11, 19-12, 19-15—19-18 and 19-20. A new § 16-12 was subsequently added by Ord. No. 1886, adopted July 3, 1989.

Sec. 16-17. - Shutting off or discontinuing provided utilities.

The owner shall not shut off or cause to be discontinued the provided utilities for any occupied dwelling, dwelling unit or rooming unit, except in cases of temporary emergency and where such interruption of such utilities is necessary while in the actual process of making repairs.

(Code 1965, § 19-74)

Secs. 16-18—16-30. - Reserved.

ARTICLE II. - LEAD-BASED PAINT

> *Footnotes:*
> *--- (**2**) ---*
> ***Note—** See the editor's footnote to articles IV—VI.*

Sec. 16-31. - Definitions.

For purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

Lead-based paint. The term "lead-based paint" shall mean any paint or similar substance which, when dry, contains in excess of one-half of one (0.5) percent lead by weight.

Substance. The term "substance" shall include, but not be limited to, lead-bearing putty, ceramics, plumbing, sealers, paint and similar items.

Surfaces. The term "surfaces" shall include, but not be limited to, window sills, window frames, walls, doors, door frames, ceilings, stairs, handrails and other appurtenances of a building.

(Ord. No. 1925, 10-2-89)

Sec. 16-32. - Use prohibited; removal.

(a) It shall be unlawful for any person to use or apply, or to cause to be used or applied, any lead-based paint or substance to an interior surface, or to an exterior surface accessible to children, of any dwelling, dwelling unit or other building or facility occupied or used by children.

(b) Existing interior and exterior surfaces in dwellings and dwelling units or other buildings or facilities which are used or occupied by children and which contain lead-based paint or other substances shall be removed or covered with a covering approved by the code enforcement administrator.

(Ord. No. 1925, 10-2-89; Ord. No 2467, 1-13-98)

Sec. 16-33. - Reports of lead poisoning.

Every public health official, physician or director of a laboratory, hospital or other treatment facility who diagnoses or reasonably suspects the existence of lead poisoning in any person shall, within twenty-four (24) hours, so notify the code enforcement administrator. Such notification shall include the name and address of the individual affected and, if such individual is a minor, the name and address of the parents.

(Ord. No. 1925, 10-2-89; Ord. No 2467, 1-13-98)

Sec. 16-34. - Federal regulations.

The provisions of section 570.608 of volume 24 of the Code of Federal Regulations shall apply with respect to any residential structure constructed or rehabilitated with federal assistance.

(Ord. No. 1925, 10-2-89)

ARTICLE III. - UNSAFE STRUCTURES

> *Footnotes:*
> *--- (3) ---*
> ***Note—*** *See the editor's footnote to arts. IV—VI.*

Sec. 16-35. - Regulated.

(a) This section is adopted pursuant to the powers vested in the City of Virginia Beach by section 15.2-906 of the Code of Virginia, as amended.

(b) Upon determination by the code enforcement administrator that any building, wall or any other structure, or portion thereof, might endanger the public health or safety of other residents of the city, such building, wall or structure shall be declared unsafe.

(c) (1) Except as set forth in the Virginia Uniform Statewide Building Code for Existing Structures, notice that a building, wall or structure has been declared unsafe shall be sent by registered or certified mail, return receipt requested, to the last-known address of the owner and published in a newspaper having general circulation in the city, once a week for two (2) successive weeks; provided, however, that the second publication shall not be sooner than one (1) calendar week after the first publication. In addition thereto, notice shall be mailed to all holders of current mortgages or deeds of trust upon the property as shown by the records of the clerk of the circuit court.

(2) Such notice shall state with reasonable particularity the defects or other conditions of the building, wall or structure which render it unsafe and shall specify the period of time within which repairs or corrections shall be made or the building, wall or structure, or a portion or portions thereof, demolished and removed. Such period of time shall not be less than is reasonably required by the exercise of due diligence for the required repairs or corrections to be made, or for the building, wall or structure, or portion or portions thereof, to be demolished and removed.

(d) In the event the owner of a building, wall or structure who has been served with the notice provided for in subsection (c) hereof shall fail to comply with the terms of such notice within the time specified therein, the code enforcement administrator, through his or her own agents or employees, shall be authorized to order the building, wall or structure, or portion thereof, to be repaired, or to be demolished and the debris removed, at the cost of the owner. Such cost shall include an administrative fee in the amount of one hundred fifty dollars ($150.00). For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. No building, wall or structure, or portion thereof, shall be repaired or demolished by order of the code enforcement administrator for at least thirty (30) days following the later of the return of the receipt or newspaper publication as provided for in subsection (c) hereof.

(e) Any person who shall fail to comply with a notice provided for in subsection (c) hereof shall be guilty of a misdemeanor punishable in accordance with the provisions of section 16-11 hereof. Any violation of the provisions of this section may also be enjoined by the circuit court at the suit of the code administrator.

(f) All costs and expenses incurred by the city for repairing or demolishing a building, wall or structure pursuant to the provisions of this section shall be chargeable to and paid by the owner of property and may be collected as real estate taxes and levies are collected. Any such charges which remain unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in sections 58.1-3940 et seq., and 58.1-3965 et seq. of the Code of Virginia, 1950, as amended.

(g) For purposes of this section, the term "code enforcement administrator" shall mean the official of the department of housing and neighborhood preservation and his or her respective assistants and deputies.

(Ord. No. 2248, 10-12-93; Ord. No. 2350, 9-12-95; Ord. No. 2442, 4-29-97; Ord. No. 2467, 1-13-98; Ord. No. 3015, 5-13-08)

ARTICLE IV. - BUILDINGS AND OTHER STRUCTURES HARBORING ILLEGAL DRUG ACTIVITY

Sec. 16-36. - Definitions.

The following words and terms used in this Article shall have the following meanings, unless the content clearly indicates otherwise:

Affidavit: The affidavit prepared by the chief of police or his designee in accordance with subdivision (b)(1) of section 16-37 hereof.

Controlled substance: Illegally obtained controlled substances or marijuana, as defined in section 54.1-3401 of the Code of Virginia, as amended.

Corrective action: The taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

Drug blight: A condition existing on real property which tends to endanger the public health or safety of residents of the city and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

Owner: The record owner of real property.

Property: Real property.

(Ord. No. 2349, 9-12-95)

Sec. 16-37. - Buildings and other structures harboring illegal drug activity regulated.

(a) This section is adopted pursuant to the powers vested in the city by section 15.2-907 of the Code of Virginia, as amended.

(b) The city may undertake corrective action with respect to property which has been determined to be the situs of drug blight in accordance with the procedures described herein:

(1) The chief of police or his designee shall execute and forward to the director of housing and neighborhood preservation an affidavit, citing this section and section 15.2-907 of the Code of Virginia, as amended, to the effect that (i) drug blight exists on the property and in the manner described therein; (ii) the city has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

(2) The director of housing and neighborhood preservation or his designee shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the city's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty (30) days from the date thereof to undertake corrective action to abate the drug blight described in such affidavit and (ii) the city will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

(3) If appropriate corrective action is not undertaken during such thirty-day period, the director of housing and neighborhood preservation or his designee shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the

city may commence corrective action to abate the drug blight on the property, which date shall be no earlier than fifteen (15) days after the date of mailing of the notice. Such additional notice shall require that the property, if occupied, be vacated and secured as a hazard to the public health and safety, and also reasonably describe any other corrective action contemplated to be taken by the city. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the city, to seek equitable relief, and the city shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

(c) If the owner of such property refuses or fails to take timely corrective action pursuant to this section, and the city undertakes corrective action with respect to the property after complying with the provisions of subsection (b), the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the city as taxes and levies are collected.

(d) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as provided in articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of chapter 39 of title 58.1, Code of Virginia, as amended.

(e) If the owner of such property takes timely corrective action pursuant to this section, the city shall deem the drug blight abated, shall close the proceeding without any charge or cost to the owner, and the director of housing and neighborhood preservation or his designee shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the city from initiating a subsequent proceeding if the drug blight recurs.

(f) Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

(Ord. No 2349, 9-12-95; Ord. No 2468, 1-13-98)

ARTICLE V. - DEFACEMENT OF STRUCTURES

Sec. 16-38. - Removal or repair of defaced structures.

The city manager or his designee may require the owner of any building, wall, fence or other structure which has been defaced to remove or repair the defacement, where such defacement is visible from any public right-of-way in accordance with the procedures described herein:

(1) The city manager or his designee shall send a notice to the owner of the property by regular mail to the last address listed for the owner on the city's assessment records for the property advising that the owner has seven (7) days from the date of the notice to remove or repair the defacement.

(2) If the owner fails to remove or repair the defacement within the time prescribed in the notice, the city manager or his designee may have such defacement removed or repaired by his agents or employees at the expense of the city.

(Ord. No. 2465, 12-6-97)

ARTICLE VI. - HOUSING AND BUILDING MAINTENANCE CODE

Sec. 16-39. - Spot blight abatement.

(a) The City of Virginia Beach, in accordance with Code of Virginia sections 36-49.1:1 et seq. may acquire or repair any blighted property, as defined in (b) below, by exercise of the powers of eminent domain provided in title 25.1 of Code of Virginia, and further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the city may recover the cost of any repair or disposal of such property from the owner, or owners of record at their last known address as contained in the records of the treasurer or the current real estate tax assessment records.

(b) "Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted under the process for determination of "spot blight".

(c) The city manager or his designee shall make a preliminary determination that a property is blighted in accordance with this section. The city manager or his designee shall notify the owner, or owners of record as determined in (a) above, specifying the reasons why the property is considered blighted. The owner or owners shall have thirty (30) days from the date the notice is sent within which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time. A spot blight abatement plan is a written plan prepared by the owner or owners of record of the real property to address spot blight.

(d) If the owner or owners of record fail to respond within the thirty-day period with a written spot blight abatement plan that is acceptable to the city manager or his designee, the city council may, by ordinance, declare the property blighted.

(e) No spot blight abatement plan shall be effective until notice has been sent to the property owner or owners of record and an ordinance has been adopted by city council. Written notice to the property owner shall be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of any spot blight abatement plan prepared by the city.

(f) If the repair or other disposition of the property is approved, the city manager or his designee may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law.

(g) If the ordinance is adopted by city council, the city shall have a lien on all property so repaired or acquired under an approved spot blight abatement plan to recover the cost of (i) improvements made by the city to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien on such property shall bear interest at the legal rate of interest, six (6) percent per annum. The lien authorized by this section may be recorded as a lien among the land records of the Virginia Beach Circuit Court, which lien shall be treated in all respects as a tax lien and enforceable as such. City council may recover its costs of repair from the owner or owners of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner or owners. If the property is acquired by the city through eminent domain, the cost of repair may be recovered when city council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.

(h) If the blighted property is occupied for personal residential purposes, city council, in approving the spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisitions, under an approved spot blight abatement plan, by the city of property which has been condemned for human habitation for more than one year. In addition, if the city is exercising the powers of eminent domain in accordance with title 25.1 of Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such person.

(i) In lieu of the acquisition of blighted property by the exercise of eminent domain and in lieu of the exercise of other powers granted in subsections (a) through (g), city council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Code of Virginia section 15.2-900 or section 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the city abates or removes the nuisance at its expense, the costs of the removal or abatement shall be a lien on the property and such lien shall bear interest at the legal rate of interest, six (6) percent per annum, beginning on the date the removal or abatement is completed through the date on which the lien is paid.

(j) The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Ord. No. 2613, 9-12-2000; Ord. No. 2963, 11-28-06; Ord. No. 3096, 7-14-09)

ARTICLE VII. - STORAGE OF VEHICLES

Footnotes:
*--- **(4)** ---*
***Cross reference—** Motor vehicles and traffic, Ch. 21.*

Sec. 16-40. - Open storage of inoperable vehicles on residential, commercial or agricultural property.

(a) It shall be unlawful whether as owner, tenant, occupant, lessee or otherwise, for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential, commercial or agricultural purposes, any vehicle, which is inoperable. As used in this Section, notwithstanding any other provisions of the law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located. The placing, draping or securing of a tarpaulin or other nonrigid cover, over and around an inoperable vehicle shall not be sufficient to comply with the requirements of this section.

(b) As used in this Section, an "inoperable vehicle," shall mean any motor vehicle, trailer or semitrailer, as defined in Code of Virginia, section 46.2-100:

(1) Which is not in operating condition; or

(2) Which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle; or

(3) On which there are displayed neither valid license plates nor a valid inspection decal.

(c) Any person violating any provision of this section shall be given a notice that the keeping of such inoperable vehicle constitutes a violation which must be abated within seven (7) days from the date of such notice. The notice shall (1) reasonably describe the subject inoperable vehicle; (2) state that any owner of such inoperable vehicle or any owner of property upon which such inoperable vehicle is located may appeal the decision that the vehicle is in violation of this section by a written notice of appeal with the code enforcement administrator of the department of housing and neighborhood preservation within seven (7) days from the date of the notice; (3) state that failure to comply with the requirements of this Section may result in the removal and disposal of the vehicle ; (4) state that such removal and disposal shall be at the expense of the owner of such inoperable vehicle or the owner of the property upon which such vehicle is located; and (5) state that an administrative fee in the amount of one hundred fifty dollars ($150.00) shall be chargeable to and paid by the owner of such inoperable vehicle or the owner of the property upon which such vehicle is located and may be collected as taxes and levies are collected.

(d) Service of the notice provided for in subsection (c) shall be by first-class mail, personal delivery or posting in a conspicuous place. The owner shall, for purposes of this Section, be defined as the owner of the inoperable vehicle, or if the owner of the inoperable vehicle cannot be ascertained or readily located, the owner of the property. The Code Enforcement Administrator and inspectors of the Department of Housing and Neighborhood Preservation are hereby authorized to deliver or post such notices.

(e) Failure of any person to place such inoperable vehicle into a fully enclosed structure, to screen or shield such vehicle from view as set forth in subsection (a) above, or to remove such vehicle, or render such vehicle operable within the time prescribed in subsection (c) above shall constitute a Class 3 misdemeanor. In addition to any penalties imposed hereunder, code enforcement administrator or his designee may institute legal action to enjoin the continuing violation and may request that the Chief of Police or his designee remove and dispose of such inoperable vehicle as provided in subsections 16-41(c)—(h).

Should the cost of removal and disposal exceed the proceeds of sale as outlined in subsection (e) above, the additional cost of any such removal and disposal shall be chargeable to the owner of the inoperable vehicle or of the property and may be collected by the city as taxes and levies are collected; and every cost authorized by this section with which the owner of the property has been assessed shall constitute a lien against the property from which the inoperable vehicle was removed, the lien to continue until actual payment of such costs has been made to the city.

(f) The owner or his agent may, at any time from the date of removal, up to and including the twentieth day of storage, claim such vehicle upon payment of towing, preservation and storage charges.

(g) The provisions of this section shall not apply to any business duly licensed to deal in the buying, selling, storing or disassembling of motor vehicles, trailers or semitrailers, or the temporary storage of motor vehicles, trailers or semitrailers awaiting repairs, or any motor vehicle, trailer or semitrailer which is designed or used primarily for agricultural or horticultural purposes and which is kept upon a farm or other property principally used for such purposes.

(h) Any owner of an inoperable vehicle or owner of property upon which such vehicle is located aggrieved of a decision made pursuant to this section may appeal such decision as set forth in subsection (c) above. The Code Enforcement Administrator or his designee shall schedule a hearing of such appeal on a date not later than ten (10) business days after the filing of the appeal; provided, however, that such hearing may, at the discretion of the Code Enforcement Administrator or his designee, be rescheduled for good cause shown. Enforcement proceedings otherwise permitted under this Section shall be stayed during the pendency of such appeal.

(Ord. No. 2903, 12-13-05; Ord. No. 3018, 5-13-08)

Sec. 16-41. - Removal, storage and sale of certain unattended vehicles—Generally.

(a) Any law enforcement officer or other uniformed employee of the police department as authorized by the Chief of Police or designee may have removed for safekeeping any motor vehicle, trailer, semitrailer or part or combination thereof if:

(1) It is left unattended or has been involved in an accident on a public highway or other public property and impedes the flow of traffic;

(2) It is illegally parked;

(3) It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessor or occupant;

(4) It is immobilized on a public highway by weather conditions or other emergency situation;

(5) It is left abandoned on a public highway or other public property. For the purposes of this section, it shall be presumed that a vehicle or part thereof is abandoned if (a) it lacks either a current license plate, or a current county, city or town license decal, or a valid state safety inspection decal; and (b) it has been in a specific location for four (4) days without being moved; or

(6) It is designated for removal by the code enforcement administrator as provided by Section 16-40(e).

(b) No vehicle shall be moved from private property under the provisions of subsection (a)(3) of this section without the written request of the owner, lessee or occupant thereof. Further, the person at whose request a motor vehicle, trailer or semitrailer is removed from privately owned property pursuant to this section shall indemnify the city against any loss or expense incurred by reason of the removal, storage or sale.

(c) Each removal under this Section or Section 16-40 shall be reported immediately to the Chief of Police, who shall give notice to the owner of the motor vehicle, trailer or semitrailer and to the department of motor vehicles as promptly as possible. The owner of such vehicle, trailer or semitrailer, before obtaining possession thereof, shall pay to the city all reasonable costs incidental to the removal, storage and locating the owner of the vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the costs or should the identity or whereabouts of such owner be unknown and unascertainable, after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record in the office of the Department of Motor Vehicles in Virginia against the motor vehicle, trailer or semitrailer, the chief of police may, after holding the motor vehicle, trailer or semitrailer twenty (20) days and after due notice of sale, dispose of the same at public sale and the proceeds from the sale shall be forwarded by the chief of police to the city treasurer.

(d) If no claim has been made by the owner for the proceeds of a sale under this Section, the remaining funds may be deposited to the general fund or any special fund of the city. Any such owner shall be entitled to apply to the city within three (3) years from the date of such sale, and if timely application is made therefor, the city shall pay the same to the owner, without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three (3) years from the date of such sale.

(e) Notwithstanding the foregoing provisions, any abandoned vehicle which is inoperable and whose fair market value is determined to be less than the cost of its restoration to an operable condition, may be disposed of to a demolisher, without title and without notification procedures, by the city or by the person on whose property or in whose possession the vehicle is found. The demolisher, on taking custody of the inoperable abandoned vehicle shall notify the department as provided by Code of Virginia, § 46.2-1205.

(f) Any personal property found in any unattended or abandoned motor vehicle, trailer or semitrailer may be sold incident to the sale of such vehicle pursuant to this section.

(g) In enforcing this section the police department shall not utilize any tow truck service which is not in full compliance with the requirements of article IV of chapter 21.

(h) The chief of police is authorized to adopt, with the approval of the city manager, additional requirements for towing services related to the safety and convenience of persons whose vehicles are towed in accordance with this section.

(Ord. No. 2903, 12-13-05; Ord. No. 3242, 6-26-12)

Sec. 16-41.1. - Parking of commercial vehicles.

(a) *"Commercial vehicle"* is defined as a loaded or empty motor vehicle, trailer, or semitrailer designed or regularly used for carrying freight, merchandise, or more than ten (10) passengers, including buses, but not school buses.

(b) Parking of a commercial vehicle in residential or apartment zoning districts shall be prohibited, except that:

(1) One commercial vehicle of one ton or less in carrying capacity and which does not exceed seven (7) feet in height or twenty (20) feet in length may be parked on any lot where there is located a main building owned or occupied by a resident of the premises;

(2) Commercial vehicles during the normal conduct of business or in the delivery or provision of service to a residential area are allowed;

(3) The parking of semitrailers for commercial or industrial storage is permitted on bona fide construction sites.

(c) Violations of this section shall constitute a Class 3 misdemeanor. In addition to any penalties imposed hereunder, the code enforcement administrator or his designee may institute legal action to enjoin the continuing violation.

(Ord. No. 3175, 5-10-11)

Note— This section will take effect on July 1, 2011.

Sec. 16-41.2. - Parking and storage of recreational equipment.

(a) *"Recreational equipment"* is defined as any equipment, used for transporting people or property in connection with recreation and designed for temporary occupancy, including, but not limited to, jet skis, boats and similar recreational equipment, trailers, campers, motor homes or similar vehicles or racing vehicles, off road vehicles or the trailer or other device used to haul or move such equipment.

(b) In AG-2 zoning districts, no such equipment shall be parked or stored in any required yard adjacent to a street nor closer than three (3) feet to any lot line.

(c) Where the principal use of a building is residential, recreational equipment shall be stored only as a use accessory to a permitted principal use, and subject to the following limitations:

(1) Such equipment shall be parked or stored on any lot only within a building or behind every plane of a structure that is substantially parallel to and facing the public right-of-way.

(2) On through lots, such equipment may also be parked or stored on the portion of the lot that is clearly and physically the rear of the lot provided that it is substantially screened from the public right-of-way with a six-foot solid fence or equivalent vegetation or landscaping.

(3) On corner lots, such equipment may also be parked or stored on the portion of the lot that is clearly and physically the rear of the lot and behind the plane of the house parallel and closest to the public right-of-way.

(d) Where the principal use of a building is commercial, business, or industrial, recreational equipment may be parked or stored as an accessory use, provided the limitations and requirements of the zoning district are met.

(e) Such equipment may be parked entirely within a driveway for a period not to exceed twenty-four (24) hours during loading or unloading. For purposes of this section, the term "driveway" shall include any portion of a lot, surfaced or otherwise, that constitutes an approved parking area or provides access to an approved parking area.

(f) No recreational equipment shall be parked in any public street or public right-of-way for more than three (3) hours.

(g) No such equipment shall be used for living, sleeping or housekeeping purposes except in locations lawfully established for such use.

(h) Violations of this section shall constitute a Class 3 misdemeanor. In addition to any penalties imposed hereunder, the code enforcement administrator or his designee may institute legal action to enjoin the continuing violation.

(Ord. No. 3175, 5-10-11)

Note— This section shall take effect on July 1, 2011.

ARTICLE VIII. - WORKFORCE HOUSING

DIVISION 1. - GENERAL PROVISIONS

Sec. 16-42. - Applicability.

The provisions of this article shall apply only to the sale or rental of workforce housing approved by the city council pursuant to the provisions of article 21 of the city zoning ordinance.

(Ord. No. 2998, 8-28-07)

Sec. 16-43. - Purpose and intent.

(a) The purpose of this article is to provide eligibility requirements, pricing standards and program procedures concerning initial sales, subsequent transfers and rentals of workforce housing units developed pursuant to the provisions of article 21 of the city zoning ordinance as part of the city's workforce housing program. It is the intention of the city council to establish such standards and procedures as a means of achieving the city's vision for housing and neighborhoods, as stated in Chapter 8 of the Comprehensive Plan - "Housing and Neighborhood Plan."

(b) The creation of developments containing workforce housing as an integrated component thereof will advance the city's goal of providing diverse, high-quality and affordable housing in desirable neighborhoods. Allowing a greater mix of incomes within neighborhoods increases the affordability of housing and reduces the isolation of income groups. Further, mixed-income developments are beneficial in the long run because they broaden housing opportunities, increase residents' access to nearby employment and provide a better land use arrangement to accommodate alternative, cost-effective transportation systems.

(Ord. No. 2998, 8-28-07; Ord. No. 3171, 5-10-11)

Sec. 16-44. - Definitions; explanatory material.

As used in this article, the following terms shall have the meanings set forth in this section. Where explanatory material is provided, such terms shall be construed in a manner consistent with such material:

Affordable. Housing is generally considered affordable if no more than approximately thirty (30) percent of the annual gross income of the purchaser or renter is spent on direct housing costs. For purchasers, such costs include mortgage principal, interest, taxes and homeowner's insurance, mortgage insurance premiums, mandatory homeowners' association dues and condominium fees, but do not include utilities or other related housing costs. With respect to rentals, such costs include rent payments and an allowance for tenant-paid utilities other than cable television and telephone service but do not include other related housing costs.

Annual gross income. Income from whatever source derived and before taxes and withholdings. Included in the calculation of gross income are base salary, overtime, part-time employment, bonuses, commissions, dividends, interest, royalties, pensions, military housing allowance, Veterans Administration compensation, alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income from trusts, and other income from business activities or investments.

Appreciation. The workforce housing program uses a shared appreciation model to recapture the workforce housing discount, plus a fixed percentage of a unit's appreciation in value.

Area median income (AMI). The Area Median Income for the Virginia Beach-Norfolk-Newport News, Virginia Metropolitan Statistical Area (MSA) published annually by the U.S. Department of Housing and Urban Development (HUD) and adjusted for household size. Pricing of workforce housing units and end-user qualifications are partially based on this published data. The initial sales price of workforce housing units is based on the ratio of housing payments relative to the AMI. Additionally, the end user's income qualifications are based on the AMI, adjusted for household size.

City. The City of Virginia Beach or such other entity as the city council may designate as its agent in discharging the duties and performing the acts prescribed or contemplated by this article.

Developer. The developer of workforce housing who sells a workforce housing unit pursuant to the provisions of this article. The term includes other persons or entities, such as homebuilders, who purchase workforce housing units for the purpose of selling such units pursuant to the provisions of this article, but does not include any person who resells a workforce housing unit pursuant to section 16-49.

Director. The director of the department of housing and neighborhood preservation or his designee.

Discounted sales price. The consideration paid to the developer for a workforce housing unit; provided, however, that in the case of a resale, the discounted sales price is the difference between the initial sales price and the amount of funds provided by the city, as evidenced by a promissory note, to help buy down the eligible buyer's first mortgage.

Eligible buyer. A household whose workforce housing application has been approved and who meets the requirements of section 16-46. Such requirements include, among other things, the household's gross annual income, financial assets, and location in which an adult, non-dependent household member lives and works. In order to qualify to purchase a workforce housing unit, a household's annual gross income must generally be between eighty (80) percent and one hundred twenty (120) percent of AMI.

Eligible renter. A household whose workforce housing application has been approved and who meets the requirements of section 16-51. Such requirements include, among other things, the household's gross annual income, financial assets, and location in which an adult, non-dependent household member lives and works. In order to qualify to rent a workforce housing unit, a household's annual gross income must generally be between forty (40) percent and ninety (90) percent of AMI or, where the building contains an elevator, between forty (40) percent and one hundred (100) percent of AMI.

End user. An eligible buyer or eligible renter that is, or will be, occupying a workforce housing unit as its principal residence.

Equity sharing agreement. An agreement between the city and eligible buyer in which the eligible buyer agrees to share the net appreciation with the city upon the resale of the workforce housing unit

Gross appreciation. The difference between the resale price of a workforce housing unit received by an eligible buyer upon resale of the unit to a third party and the initial sales price that the eligible buyer paid for the unit.

Household. One or more persons living in, or intending to live in, the same workforce housing unit.

Initial sale. The original sale of a workforce housing unit to an eligible buyer.

Initial sales price. The consideration paid for the workforce housing unit by the eligible buyer.

Net appreciation. The amount of the resale price of a workforce housing unit, less the total amount of: (i) the original principal amount of the first mortgage loan on the unit, (ii) the principal amount of the workforce housing deed of trust note and of any VHDA-held second deed of trust note if VHDA also holds the first deed of trust on the unit, (iii) closing costs actually paid by the eligible buyer in connection with the purchase of the unit, (iv) the eligible buyer's down payment, (v) the appraised value of any capital improvements approved by the director of housing and neighborhood preservation or, where the first deed of trust is insured by the FHA, the cost of such capital improvements, and (vi) the reasonable and customary sales commission paid by the eligible buyer.

Resale price. The sales price of the workforce housing unit that the eligible buyer receives upon the sale of the workforce housing unit to a third party.

Shared net appreciation. The amount of the net appreciation owed to the city by the purchaser of a workforce housing unit, which shall be equal to the proportional share represented by the city's investment in the original purchase of the unit as evidenced by the equity sharing agreement. For example, if the amount of the workforce housing deed of trust note equals twenty-five (25) percent of the initial sales price of the unit, the amount of shared net appreciation owed to the city will be twenty-five (25) percent of the net appreciation of the unit. Subject to the provisions set forth in subsections (e) and (f) of Section 16-49 regarding first deeds of trust insured by the Federal Housing administration (FHA), the amount of the shared net appreciation and principal amount of the workforce housing deed of trust note is repaid to the city upon resale of the unit.

Workforce housing or workforce housing unit. Dwellings or dwelling units, whether single-family dwellings, duplexes, semi-detached dwellings, townhouses or multiple-family dwelling units, approved by the city council pursuant to article 21 of the city zoning ordinance. Such housing is generally affordable to households with working members who live or work in the City of Virginia Beach.

Workforce housing application. An application submitted to the city that provides the necessary information to determine if a household qualifies for the workforce housing program. Participation in the program is contingent upon approval of this application.

Workforce housing deed of trust. A deed of trust securing the repayment of the loan made by the city to an eligible buyer, representing the workforce housing discount, plus the shared net appreciation of the unit.

Workforce housing discount. The difference in sales price between the fair market value of a workforce housing unit and the reduced sales price necessary to make such unit affordable to a household at a targeted income level.

Workforce housing revolving fund. A fund administered by the department of housing and neighborhood preservation for the recapture of workforce housing discounts, fees and shared net appreciation from the sale of workforce housing units. Funds are reinvested in the workforce housing program for the purpose of preserving or creating affordable housing.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08; Ord. No. 3213, 1-24-12; Ord. No. 3261, 10-23-12)

DIVISION 2. - SALE AND OWNERSHIP OF WORKFORCE HOUSING

Sec. 16-45. - Initial sales of workforce housing units.

(a) The city shall have the right to purchase workforce housing units offered for initial sale as follows:

(1) The city shall have an exclusive right to purchase any workforce housing unit, not to exceed a total of one-third (⅓) of the workforce housing units for sale within a development, by so notifying the developer of the unit within thirty (30) days from the date on which the city is notified that the workforce housing unit is available for initial sale. If the city does not timely exercise its right to purchase the unit, it may be sold to an eligible buyer.

(2) Any workforce housing unit the city has not elected to purchase shall be offered for sale exclusively to eligible buyers for a period of sixty (60) days from the date on which the city's right to purchase the unit expires or from the date the city issues the certificate of occupancy; whichever is later. Upon the expiration of such time, any such unit not sold to the city or to an eligible buyer may be offered for sale without restriction, provided, that when such a unit is sold, the developer shall pay to the city the lesser of the difference between either the actual sales price or the sales price of comparable sold workforce housing units in the same development, and the price as reduced by the amount of the workforce housing discount, less any additional sales commission actually paid by the developer up to a maximum of two (2) percent of the sales price and any closing cost assistance actually paid on behalf of the buyer up to a maximum of three (3) percent of the purchase price.

(b) The procedure for initial sales of workforce housing units to be purchased by an eligible buyer shall be as follows:

(1) A developer who has reached an agreement with an eligible buyer to sell a specific workforce housing unit to such eligible buyer as an initial sale shall notify the city that the developer and eligible buyer have reached an agreement regarding the purchase of the unit. The city shall, either before or after it receives such notification, verify the eligible buyer's continued eligibility under section 16-46.

(2) In the event the eligible buyer continues to meet such requirements, the developer and city shall enter into an agreement pursuant to which the developer agrees to sell the unit to the eligible buyer at a price incorporating the workforce housing discount (the "discounted sales price"). The developer shall not be entitled to receive any portion of the monies representing the workforce housing discount.

(3) The city and eligible buyer shall also enter into an agreement pursuant to which the city will finance, by means of a workforce housing deed of trust, the difference in value between the fair market value of the workforce housing unit and the discounted sales price. Such agreement shall further provide, among other things, that that the city shall have the right to repurchase the unit upon resale, or to assign such right to an eligible buyer, in accordance with the provisions of section 16-49.

(4) The workforce housing deed of trust shall: (i) subject to the provisions set forth in subsections (e) and (f) of Section 16-49 regarding first deeds of trust insured by the Federal Housing administration (FHA), secure repayment to the city of the workforce housing discount, plus the shared net appreciation; (ii) carry a zero percent interest rate; (iii) be subordinate only to the lender's first deed of trust or, in the event the property is financed by means of first and second deeds of trust held by the Virginia Housing

Development Authority (VHDA), to such deeds of trust; and iv) provide that the eligible buyer shall make no payments of principal on the indebtedness secured by the workforce housing deed of trust until the eligible buyer sells or otherwise divests his or her interest in the workforce housing unit.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08; Ord. No. 3213, 1-24-12; Ord. No. 3261, 10-23-12; Ord. No. 3316, 11-26-13)

Sec. 16-46. - Eligibility requirements for buyers of workforce housing units.

(a) In order to be deemed an eligible buyer of a workforce housing unit, a household shall meet the following criteria:

(1) At least one adult, non-dependent member of the household to be shown on the deed of trust note as a borrower or other obligor shall, at the time of application to the workforce housing program, live or work full-time in the City of Virginia Beach, or must have a bona fide offer of full-time employment within the City of Virginia Beach commencing within three (3) months of the time of application;

(2) No member of the household shall own or have a controlling interest in any other real property;

(3) The household's combined annual gross income shall, at the time of application, be between eighty (80) percent and one hundred twenty (120) percent of area median income, adjusted for household size; and

(4) The net worth of the household shall not exceed fifty (50) percent of the sales price of the workforce housing unit being financed. The following items shall not be included in determining the net worth of a household:

a. The present value of insurance policies, retirement plans, furniture, automobiles or household goods;

b. The portion of the household's liquid assets used for the down payment and to pay closing costs, up to a maximum of twenty-five (25) percent of the purchase price; and

c. Any income-producing assets needed as a source of income to meet the minimum qualifying requirements for eligible buyer status.

(b) A household shall, in addition to the foregoing requirement, qualify for a mortgage loan from a mortgage lender acceptable to the city. The city may deny eligible buyer status to any household if it determines that such mortgage loan contains deceptive, predatory or abusive terms.

(c) Once determined to be an eligible buyer, a household must continue to meet the requirements of subsection (a) through the time of signing a sales contract. A household shall be required to certify its continued qualification as an eligible buyer at signing of a sales contract and at any prior time requested by the city.

(d) Workforce housing units shall be made available by the city for purchase only by eligible buyers who have qualified for a mortgage loan in accordance with subsection (b).

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08; Ord. No. 3316, 11-26-13)

Sec. 16-46.1. - Occupancy requirements.

(a) Workforce housing units shall be owned and occupied as the principal residence of the eligible buyer at all times. No interest in any workforce housing unit shall be leased, sold or otherwise transferred by the eligible buyer owning such unit, nor shall the owner of any workforce housing unit permanently vacate such unit,

except in accordance with the provisions of this article.

(b) The owner of a workforce housing unit, other than the city or developer, shall annually certify his or her compliance with the provisions of subsection (a) on a form provided by the department of housing and neighborhood preservation.

(Ord. No. 3055, 10-28-08)

Sec. 16-47. - Workforce housing pricing.

(a) Workforce housing shall be priced so as to be affordable for purchase by a household with a gross annual income between eighty (80) percent and one hundred twenty (120) percent of area median income, adjusted for household size. Semi-annually, the housing advisory board shall establish maximum sales prices for workforce housing units based upon current area median income, prevailing mortgage interest rates in the area, real estate tax rates, homeowner's insurance rates, housing ratios, mortgage insurance premiums, condominium and homeowners' association fees and other costs and fees as dictated by the housing market, and the size of targeted households. In determining whether to grant approval pursuant to article 21 of the city zoning ordinance of a proposed development that includes workforce housing, the city council shall determine whether the proposed pricing of the workforce housing within such development meets the requirements of this section.

(b) The department of housing and neighborhood preservation shall make available to prospective developers of workforce housing a spreadsheet planning tool to assist in determining if a specific development meets the requirements of this section.

(Ord. No. 2998, 8-28-07; Ord. No. 3092, 6-23-09; Ord. No. 3213, 1-24-12; Ord. No. 3503, 5-16-17)

Sec. 16-48. - Workforce housing discount.

(a) All initial sales of workforce housing units shall be at a price that incorporates a workforce housing discount, as defined in section 16-44. The workforce housing discount shall be sufficient to bring the sales price of a workforce housing unit within a price range that is affordable to households with annual gross incomes between eighty (80) percent and one hundred twenty (120) percent of area median income, adjusted for household size The actual amount of the workforce housing discount applicable to a specific workforce housing unit shall be subject to the approval of the city council.

(b) The baseline amount of the workforce housing discount shall be twenty-five (25) percent of the undiscounted sales price; provided, however, that if the undiscounted sales price of a workforce housing unit is affordable by a household with a gross annual income between eighty (80) percent and one hundred twenty (120) percent of area median income, adjusted for household size, the required workforce housing discount may be less than twenty-five (25) percent. The chart below illustrates the required discount applied to a WFH Unit given the affordability of an equivalent market rate unit:

Affordability Range of Market Units (as a Percent of AMI)		Required Workforce Housing Discount
From	To	
0%	80%	1%

81%	90%	5%
91%	100%	10%
101%	110%	20%
111%	120%	25%

(c) Notwithstanding the provisions of subsection (b), workforce housing units in excess of the minimum number required under Section 2106 of the City Zoning Ordinance may be discounted at a lesser rate than provided in subsection (b) so long as such units are sold at a price meeting the requirements of subsection (a).

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08; Ord. No. 3163, 4-12-11)

Sec. 16-49. - Resale of workforce housing units.

(a) Prior to offering a workforce housing unit for resale, the owner shall notify the city of the owner's intent to sell the unit. The city shall notify the unit owner of its intention to purchase the unit within thirty (30) days from the date on which the owner's notice of intent to sell was received by the city. In the event the city determines to purchase the unit upon resale, it shall have the right to assign the contract to an eligible buyer.

(b) The city shall tender to the unit owner an offer to purchase such unit at its fair market value. The fair market value shall be determined by appraisal. Such appraisals shall be performed by licensed Virginia real estate appraisers selected by the city as follows:

The city and workforce housing unit owner shall attempt to agree upon an appraiser, who shall determine the fair market value of the workforce housing unit as of the date of the actual or anticipated sale. If the parties are unable to agree upon an appraiser within ten (10) days, the parties shall each have an appraisal made by an appraiser of its choice to establish the fair market value. If the two competing appraisals are within ten (10) percent of each other, the midpoint between the two shall be considered the fair market value. If the two appraisals are not within ten (10) percent of each other, the parties shall agree on a third appraiser, and such appraiser's valuation shall be controlling as to fair market value. If the parties cannot agree on a third appraiser, the city shall have the right to appoint a qualified appraiser and such appraisal shall be controlling as to fair market value. The parties shall share equally in the cost of joint appraisals and shall be solely responsible for the cost of any other appraisals.

(c) In the event the city decides not to purchase or assign its right to purchase the unit, it shall so notify the owner in writing, who shall thereafter have the right to sell the unit to any other person or entity. In such event, the provisions of this section shall not thereafter apply to any subsequent resale of the unit.

(d) In the event the city purchases or assigns its right to purchase a workforce housing unit from the owner of such unit, it shall make such unit available for sale to another eligible buyer for a period of at least ninety (90) days. The city shall notify the eligible buyers on its prescreened list of the availability of the unit.

(e) In the event an eligible buyer enters into a contract to purchase the unit within the ninety-day period, the city shall determine whether such eligible buyer continues to so qualify. If such eligible buyer continues to meet the eligibility requirements of section 16-46, the owner of the unit shall enter into a contract with the city and, if applicable, the city's assignee, to purchase the unit at the fair market value thereof, as determined pursuant to subsection (b). The contract shall further provide that: (i) the amount of the workforce housing discount, plus the shared net appreciation of the unit, shall be repaid to the city upon resale of the unit,

provided that where the first deed of trust on the property is insured by the FHA, the owner shall be permitted to recover, at a minimum, original purchase price, sales commission, cost of capital improvements, and any accrued negative amortization if the property was financed with a graduated payment mortgage, and (ii) that the city shall have the right to repurchase the unit, or to assign such right to an eligible buyer, in accordance with the provisions of this section.

(f) At settlement, the principal amount of the outstanding workforce housing deed of trust note, plus the shared net appreciation of the unit, as defined in section 16-44, shall be repaid to the city from the proceeds of the resale of the unit, provided that where the first deed of trust on the property is insured by the FHA, the owner shall be permitted to recover, at a minimum, original purchase price, sales commission, cost of capital improvements, and any accrued negative amortization if the property was financed with a graduated payment mortgage. All such monies shall be deposited into the workforce housing revolving fund.

(g) Subject to the availability of funding, the city shall finance a portion of the purchase price equal to the amount of the new workforce housing discount by means of a note secured by a workforce housing deed of trust.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08; Ord. No. 3213, 1-24-12; Ord. No. 3261, 10-23-12)

Sec. 16-49.1. - Same—Exceptions.

Notwithstanding the provisions of section 16-49, the following transfers of workforce housing units shall be allowed:

(a) A transfer of a workforce housing unit to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant;

(b) A transfer of a workforce housing unit where the spouse becomes an owner of the workforce housing unit and the transferee is a person who occupies or will occupy the workforce housing unit;

(c) A transfer of a workforce housing unit resulting from a decree of dissolution of marriage, legal separation or from an incidental workforce housing unit settlement agreement by which the spouse becomes an owner of the workforce housing unit and the transferee is a person who occupies or will occupy the workforce housing unit; and

(d) A transfer to an inter vivos trust in which the owner is and remains the beneficiary of the trust and the occupant of the workforce housing unit.

(Ord. No. 3055, 10-28-08)

Sec. 16-50. - Restrictions on refinancing, etc. of workforce housing units.

(a) No owner of a workforce housing unit shall:

(1) Refinance such unit or encumber the unit with any other mortgage loan, home equity loan or similar instrument without the prior written approval of the director. Such approval shall be requested no later than thirty (30) days prior to the date of settlement of the proposed refinancing or loan. The owner or prospective lender shall provide any information required by the director, including, but not limited to, an appraisal of the unit performed by a licensed Virginia real estate appraiser and based on the sales

prices of comparable properties that have recently sold. Such appraisal shall be subject to the approval of the director. In addition, the owner or prospective lender shall be charged a reasonable transaction fee to cover the administrative expenses associated with processing the request;

(2) Make any payments of principal on the second mortgage loan secured by the workforce housing deed of trust until the unit is resold by the owner; or

(3) Refinance such unit with a loan having a total loan-to-value ratio greater than the owner's proportional share of the initial purchase price. The loan-to-value ratio is the ratio of the principal amount of the refinancing loan to the fair market value of the unit.

(b) The workforce housing deed of trust shall not be subordinated to any other mortgage or encumbrance, except a valid purchase money first deed of trust recorded against the property.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08)

DIVISION 3. - RENTAL OF WORKFORCE HOUSING

Sec. 16-51. - Eligibility requirements for renters of workforce housing units; verification.

(a) In order to be deemed an eligible to rent a workforce housing unit, a household shall meet the following criteria:

(1) At least one adult, non-dependent member of the household occupying the unit shall, at the time of application to the workforce housing program, live or work full-time in the City of Virginia Beach, or must have a bona fide offer of full-time employment within the City of Virginia Beach commencing within three (3) months of the time of application;

(2) No member of the household shall own or have a controlling interest in any other real property;

(3) The household's gross annual income shall, at the time of application, be between forty (40) percent and ninety (90) percent of area median income, or, where the building contains an elevator, between forty (40) percent and one hundred (100) percent of Area Median Income, adjusted for household size; and

(4) The net worth of the household shall not exceed fifty (50) percent of the total of rent payments for a period of twelve (12) months. The following items shall not be included in determining the net worth of a household:

a. The present value of insurance policies, retirement plans, furniture or household goods; and

b. Any income-producing assets needed as a source of income to meet the minimum qualifying requirements for eligible renter status.

(b) Before a household may enter into a rental agreement for a workforce housing unit, the property owner or manager of the unit shall verify that such household meets the foregoing eligibility requirements. All property owners or managers of workforce housing units for rent shall maintain a list of households it has screened and determined to be eligible renters.

(c) Property owners or managers shall also maintain documentation on each household currently occupying a workforce housing unit for rent. At a minimum, such documentation shall include:

(1) Verification of residency or work requirements for eligibility purposes;

(2) Composition of the household; and

(3) Annual gross income for the household and each of the household members whose income is included in determining eligibility.

(d) Property owners or managers shall ensure that all persons living in a workforce housing rental unit are listed on the rental agreement. It shall be a condition of the rental agreement for any such unit that the city may inspect the records of the property owner or manager to ensure compliance with eligibility requirements and may, at reasonable times, enter any workforce housing rental unit to verify that it is occupied by an eligible renter.

(e) Property owners or managers shall, upon renewal of a rental agreement, but no less often than annually, verify that the occupants of a workforce housing unit for rent continue to meet applicable eligibility standards.

(f) If a property owner or manager determines that a household occupying a workforce housing unit for rent no longer meets applicable eligibility requirements, such property owner or manager shall:

(1) Require the household to vacate the unit upon the expiration of the current rental agreement; or

(2) Allow the household to continue to occupy the unit upon expiration of the current rental agreement at the market-based rental price and make the next comparable market-based rental unit available to an eligible renter at a rental price deemed affordable under the standards prescribed in this article.

The household shall be removed from the list of eligible renters and shall not thereafter be eligible to rent a workforce housing unit for such period of time as applicable the household meets applicable eligibility requirements.

(Ord. No. 2998, 8-28-07; Ord. No. 3213, 1-24-12)

Sec. 16-52. - Rental property compliance agreement.

(a) A property owner desiring to rent property under the workforce housing program shall enter into a compliance agreement with the city. The terms of such agreement shall be prescribed by the city and shall set forth the terms and conditions of the owner's participation in the workforce housing program, including, but not limited to, occupancy and rent requirements, including maximum rents, means of preserving the long-term affordability of workforce housing rental units, and such other terms and conditions as are, in the judgment of the director, reasonable and necessary to ensure compliance with applicable provisions of this article and the goals of the workforce housing program. All workforce housing rental units shall be rented in conformity with the income and rent limitations specified in the compliance agreement for a period of not less than fifty (50) years.

(b) Property owners or managers shall, upon request of the director, provide a copy of their most current tenant selection policy or criteria.

(c) Any material failure to comply with the terms of an compliance agreement shall subject the owner to a liquidated damages penalty in the amount of fifty dollars ($50.00) per unit for each day such noncompliance continues, unless the director waives such penalty, in whole or in part, based upon his determination that

the owner has taken timely corrective action to cure such noncompliance. Liquidated damages collected by the city shall be deposited into the workforce housing revolving fund.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08)

Sec. 16-53. - Rental procedures.

(a) Workforce housing units shall be rented only to households who meet the eligibility standards set forth in section 16-51.

(b) A developer building workforce housing units for rental purposes shall notify the director no later than forty-five (45) days prior to the units being ready for initial occupancy. In the notification the developer shall supply the following information:

(1) The name of the development and its location;

(2) Number of units by type of unit;

(3) The size of units in square feet;

(4) The number of bedrooms and bathrooms in each unit;

(5) The market rental rates of each unit:

(6) The actual rates at which such units will be rented as workforce housing units; and

(7) Contact information for interested households.

In addition, the owner or manager of a workforce housing rental unit shall notify the director within three (3) working days of such unit becoming available for rent. The city shall maintain on its web site a comprehensive listing of all properties with available workforce housing units for rent.

(c) Any household desiring to rent a workforce housing rental unit shall submit to the property manager or manager an application for determination of its eligibility to rent a workforce housing unit. Such application shall contain such information concerning the residency, employment, gross income and net worth for each member of the household as may be necessary to determine the eligibility of such household. The property owner or his designee shall determine the eligibility of the household and shall promptly notify the director of its determination.

(d) A household that meets all of the eligibility requirements set forth in section 16-51 shall be deemed an eligible renter and shall be placed on a waiting list for a workforce housing rental unit at the development at which the household has made application for a rental unit. At such time as a workforce housing rental unit becomes available at the development, the property owner or manager shall so notify the eligible renters on its waiting list, if any. The property owner or manager may review all tenant applications and make tenant selections based on any lawful tenant selection policy.

(e) The city shall make available to the general public information concerning the location of workforce housing rental units and such other information as may assist prospective renters in seeking available workforce housing rental units.

(Ord. No. 2998, 8-28-07)

DIVISION 4. - ADDITIONAL PROVISIONS

Sec. 16-54. - Housing advisory board established; membership; duties.

(a) *Established.* The housing advisory board is hereby established.

(b) *Term.* There shall be at least ten (10) members of the board, who shall be appointed by the city council for terms of four (4) years; provided, however, that the initial terms of two (2) members shall be one (1) year, the initial terms of three (3) members shall be two (2) years, and the initial terms of three (3) members shall be three (3) years.

(c) *Membership.* Two (2) members, both of whom shall have extensive experience in practice in the City of Virginia Beach, shall be either land planners or civil engineers or architects licensed by the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; one (1) member shall be a real estate salesperson or broker licensed by the Virginia Real Estate Board; one (1) member shall be a representative of a lending institution that finances residential development in the City of Virginia Beach; one (1) member shall be a member of the city council; one (1) member shall be a builder with extensive experience in the construction of single-family detached and attached dwelling units; one (1) member shall be builder with extensive experience in the construction of multiple-family dwelling units; one (1) member shall be a current employee of the department of public works or department of planning; one (1) member shall be a representative of a nonprofit housing organization which provides services in the City of Virginia Beach; and the remaining members shall be citizens of the city.

(d) *Duties.* It shall be the duty of the board to:

(1) Establish the maximum sales and rental prices of workforce housing units. Such prices shall be based on the area median income, as defined in section 16-44, and shall be adjusted semi-annually; provided, however, that maximum rental prices in excess of those established by the board shall be allowed if such prices are consistent with the requirements of affordable housing funding sources and are approved by the director.

(2) Advise the city council on all aspects of the city's workforce housing program, including recommendations for modifications of the requirements of the program; and

(3) Report annually to the city council on the production of workforce housing units, participation in the workforce housing program, and achievement of program goals.

(4) Advise the city manager and the city council regarding implementation of strategies to address issues of housing affordability and neighborhood preservation.

(Ord. No. 2998, 8-28-07; Ord. No. 3002, 10-23-07; Ord. No. 3092, 6-23-09; Ord. No. 3213, 1-24-12; Ord. No. 3503, 5-16-17)

Sec. 16-55. - Director to establish written rules and guidelines; legal instruments.

(a) The director shall establish written rules and guidelines supplementing, and in conformity with, the provisions of this article. Such rules and guidelines shall provide for, among other things, allocation of responsibilities, sharing of information, coordination of activities and procedural protocols for administering

the workforce housing program. Such rules and guidelines shall be subject to the approval of the city council.

(b) All legal instruments used in connection with the purchase, sale or rental of a workforce housing unit shall contain adequate provisions to ensure the eligible buyer's or eligible renter's compliance with the applicable provisions of this article. Such provisions shall be approved by the city attorney.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08)

Sec. 16-56. - Violations.

(a) The following tables list certain violations of the Workforce Housing ("WFH") Program requirements and the penalties for their violation. Where more than one penalty is prescribed, they shall be deemed cumulative, such that any or all applicable penalties may be imposed:

Table 1 (sale/ownership of workforce housing units):

Program Violation	Penalties
Falsification of eligibility requirements	Permanent ineligibility for the WFH Program.
	Must sell WFH unit to the city.
	Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	Immediate repayment of the second mortgage.
Failure to occupy WFH unit as primary residence or to provide the certification required by section 16-46.1(b)	Immediately reoccupy WFH unit.
	If unable to reoccupy unit, the following penalties apply:
	1. Permanent ineligibility for the WFH program.
	2. Owner must sell WFH unit to the city.
	3. Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	4. Immediate repayment of the second mortgage.
Failure to comply with all city regulations for property maintenance	Immediate correction of code violation.
	If unable to correct code violations in prescribed time period, the following penalties apply:
	1. Permanent loss of eligibility for the WFH program.
	2. Must sell WFH unit to the city.
	3. Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	4. Immediate repayment of second mortgage.
Failure to comply with refinancing and home equity loan requirements of WFH program	Permanent ineligibility for the WFH program.
	Owner must sell WFH unit to the city.
	Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	Immediate repayment of second mortgage.
Failure to offer the city first right to purchase when desiring to sell WFH unit	Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	Immediate repayment of second mortgage.
	Further legal action as deemed appropriate by the city.

End-user enters into a lease-to-purchase agreement for the WFH unit	Owner must sell WFH unit to the city.
	Immediate payment of the city's share of net appreciation on the WFH unit at resale.
	Immediate repayment of second mortgage.

Table 2 (rentals of workforce housing units):

Program Violation	Penalties
Falsification of eligibility requirements such as income, residency, employment or persons who will be occupying the unit, etc.	Permanent loss of eligibility for the WFH program.
	Must move from the units within 60 days from date of written notice of being in violation of program
	Must pay market rate rent on the unit until the unit is vacated
Failure to occupy WFH unit as primary residence	Immediately reoccupy WFH unit.
	If unable to reoccupy unit, the following penalties apply:
	1. Permanent loss of eligibility for the WFH program.
	2. Must move from the unit within 60 days.
	3. Required to pay market rate rent on unit after receiving notice of violation until unit is vacated
Failure to list all persons living in the household on lease; allowing person or persons not listed on lease to move in after lease is signed	1. Permanent loss of eligibility for the WFH program.
	2. Must move from the WFH unit.
	3. Required to pay market rate rent until household is in compliance or moves from the unit.
	4. Unauthorized persons must immediately move from WFH unit.

(b) In the event the director determines that there is reasonable cause to believe that a violation has occurred, he shall so notify the eligible buyer or eligible renter who has allegedly committed the violation. Such notice shall be by certified mail to the last know address of the eligible buyer or eligible renter and shall specify the nature of the alleged violation and the facts supporting the director's determination. The eligible buyer or renter shall have ten (10) days from the date of mailing of the notice in which to request a hearing before the city manager or his designee, who shall not be the director.

(c) The city manager or his designee shall hold the hearing on the earliest practicable date but in no event later than fifteen (15) days from the date the request for a hearing is received. Both the director and the alleged violator shall be entitled to present witnesses and other evidence in his or her behalf.

(d) The city manager or his designee shall issue a written decision within five (5) working days of the hearing, and shall mail such decision to the eligible buyer or eligible renter by certified mail no later then the following working day. Such decision shall contain a finding that the eligible buyer or eligible renter has committed the alleged violations, or any of them, or that no violations have been committed. In the event he finds that one or more of the alleged violations have been committed by the eligible buyer or eligible renter, the penalty or penalties prescribed in the chart in subsection (a) shall apply.

(e)

An adverse decision may be appealed to the circuit court by an eligible buyer or eligible renter within fifteen (15) days of the date of the decision. No such appeal shall stay the imposition of any penalty except by order of the circuit court in an appropriate case.

(Ord. No. 2998, 8-28-07; Ord. No. 3055, 10-28-08)

Sec. 16-57. - Application, etc. fees.

The city shall charge a reasonable application fee and such other ordinary and customary fees in the real estate industry as are reasonable and necessary to cover the costs of the service for which the fee is charged. The amount of such fees shall be determined by the city council upon recommendation of the housing advisory board.

(Ord. No. 2998, 8-28-07; Ord. No. 3503, 5-16-17)

Sec. 16-58. - Severability.

The provisions of this article are severable, and in the event one or more such provisions are determined invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this article shall be unaffected by such determination and shall continue in full force and effect.

(Ord. No. 2998, 8-28-07)

Chapter 17 - LIBRARIES

> *Footnotes:*
> *--- (**1**) ---*
> ***State Law reference—** Libraries generally, Code of Virginia, title 42.1; local libraries, § 42.1-33 et seq.*

ARTICLE I. - IN GENERAL

Sec. 17-1. - Free public library continued.

The free public library heretofore created by agreement between the City of Virginia Beach and Princess Anne County is hereby continued and shall be designated and known as the "Virginia Beach Public Library."

(Code 1965, § 27-1)

Sec. 17-2. - Department and director of public libraries.

(a) There is hereby created a department of public libraries, which shall consist of the director of public libraries and such other employees as shall be prescribed by the council or by the orders of the city manager or director of public libraries consistent therewith.

(b) The director of public libraries shall be a librarian certified by the state board for the certification of librarians [2] and shall have all the duties and responsibilities of a department head as prescribed in section 7.03 of the Charter.

(c) The department of public libraries shall be responsible for the operation and maintenance of the public libraries within the city, for the formulation and administration of the rules and regulations pertaining to the use of the libraries within the city and for such other powers and duties as may be assigned by the council.

(Code 1965, §§ 2-148, 2-149, 27-2, 27-3; Ord. No. 3387, 12-9-14)

Footnotes:
*--- (**2**) ---*
***State Law reference—** Librarians, Code of Virginia, § 54-261 et seq.*

Sec. 17-3. - Public library board.

(a) There is hereby created a public library board, which shall consist of not less than nine (9) nor more than fifteen (15) members. The members of the board shall be appointed by the city council for terms of four (4) years. Two (2) members shall be high school students (a junior and a senior), whose terms shall expire upon their graduation from high school, and one (1) member shall be an employee of the Virginia Beach City Public Schools. The board shall select from its membership a chair and vice-chair.

(b) The public library board shall meet not less frequently than once every quarter (three (3) months) and additionally, at the call of the chair or the director of public libraries. The board shall be responsible for making recommendations to the council on all phases of library planning, policy and management.

(Code 1965, § 27-5; Ord. No. 2172, 8-25-92; Ord. No. 2813, 5-11-04; Ord. No. 2842, 10-5-04; Ord. No. 3387, 12-9-14; Ord. 3521, 11-21-17; Ord. No. 3569, 10-2-18; Ord. No. 3643, 11-10-20)

Cross reference— Limitation on terms of members of boards and commissions and application for appointment of such members, § 2-3.

Sec. 17-4. - Damaging, defacing, etc., library property.

It shall be unlawful and a Class 1 misdemeanor for any person to willfully, maliciously or wantonly write upon, injure, deface, tear, cut, mutilate or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, manuscript, record or other library property belonging to, or in the custody of, any public library or any of its branches.

(Code 1965, § 27-12)

Cross reference— Damaging property generally, § 23-38 et seq.

State Law reference— Similar provisions, Code of Virginia, § 42.1-72.

Sec. 17-5. - Concealment of book or other property while on premises of library; removal of book or other property from library.

Whoever, without authority, with the intention of converting to his own or another's use, willfully conceals a book or other property valued at less than one thousand dollars ($1,000.00) from any public library or any of its branches, mobile units or collections, while still on the premises of such library or facility, or willfully or without authority removes any book or other property valued at less than one thousand dollars ($1,000.00) from any of the above libraries,

facilities, or collections, shall be deemed guilty of petit larceny, which is punishable as set forth in City Code section 23-31. Proof of the willful concealment of such book or other library property while still on the premises of such library or facility shall be prima facie evidence of intent to commit larceny.

(Code 1965, § 27-13; Ord. No. 3039, 6-24-08; Ord. No. 3576, 12-11-18; Ord. No. 3634, 7-21-20)

Cross reference— Petit larceny generally, § 23-31.

State Law reference— Similar provisions, Code of Virginia, §§ 18.2-66, 42.1-73.

Sec. 17-6. - Failure to return book or other library property.

Any person having in his possession any book or other property of any public library, or any of its branches, mobile units or collections, which he shall fail to return within thirty (30) days after receiving notice in writing from the custodian, shall be guilty of a Class 1 misdemeanor; provided, however, that if such book should be lost or destroyed, such person may, within thirty (30) days after being so notified, pay to the custodian the value to be determined by the public library board.

(Code 1965, § 27-14)

State Law reference— Similar provisions, Code of Virginia, § 42.1-74.

Secs. 17-7—17-18. - Reserved.

ARTICLE II. - LAW LIBRARY

Sec. 17-19. - Established; imposition of assessment of additional court costs to support library.

(a) Pursuant to section 42.1-70 of the Code of Virginia, as amended, the city hereby creates and establishes a public law library and, for the support thereof, does hereby impose and provide an assessment as part of the costs incident to each civil action filed in the courts located within the boundaries of the city in the sum of four dollars ($4.00) for each action so filed.

(b) The assessment provided for herein shall be in addition to all other costs prescribed by law, but shall not apply to any action in which the commonwealth or any political subdivision thereof or the federal government is a party, and in which the costs are assessed against the commonwealth, any political subdivisions thereof or the federal political subdivisions thereof or the federal government.

(Code 1965, §§ 27-15, 27-18; Ord. No. 1177, 5-15-81; Ord. No. 1530, 5-6-85; Ord. No. 1791, 7-11-88; Ord. No. 1798, 8-1-88; Ord. No. 2325, 5-9-95; Ord. No. 2942, 5-9-06)

State Law reference— Similar provisions, Code of Virginia, § 42.1-70.

Sec. 17-20. - Collection, remittance and disbursement of assessments imposed by section 17-19.

The assessment imposed by section 17-19 shall be collected by the clerk of the court wherein the action is filed and shall be remitted to the city treasurer and held by the treasurer subject to disbursements by the city council for the acquisition of law books, law periodicals and computer legal research services and equipment for the establishment, use and maintenance of the public law library. Such disbursements may include compensation to be paid to librarians and other necessary staff for the maintenance of such library and the acquisition of suitable quarters for such library.

(Code 1965, § 27-16; Ord. No. 1408, 10-17-83)

State Law reference— Similar provisions, Code of Virginia, § 42.1-70.

Sec. 17-21. - Compensation of librarians and staff.

The compensation of librarians and the necessary staff for the maintenance of the public law library shall be fixed by the city council.

(Code 1965, § 27-17)

State Law reference— Similar provisions, Code of Virginia, § 42.1-70.

Sec. 17-22. - Access to computer research services of state law library.

The public law library of the city, pursuant to the rules of the state supreme court, may have access to computer research services of the state law library. Disbursements may be made to purchase or lease computer terminals for the purpose of retaining such research services.

(Code 1965, § 27-17.1)

Sec. 17-23. - Acceptance of contributions, law books, etc.

The city may accept contributions for the support of the public law library or accept law books or law periodicals from any person.

(Code 1965, § 27-19)

Chapter 18 - LICENSE CODE

> *Footnotes:*
> *--- (**1**) ---*
> ***Cross reference—** Deduction of licenses, due city when paying warrant, § 2-190; local vehicle licenses, § 21-71 et seq.; taxation, Ch. 35.*
> ***State Law reference—** License taxes generally, Code of Virginia, § 58.1-3700 et seq.; city license taxes, §§ 58.1-3702, 58.1-3703.*

ARTICLE I. - IN GENERAL

Sec. 18-1. - Title.

The provisions of this chapter shall be known as the "License Code of the City of Virginia Beach, Virginia" and may be so cited.

(Code 1965, § 20-1)

Sec. 18-2. - Definitions.

Except where the context clearly indicates a different meaning or there is an express provision to the contrary, the following words and phrases, when used in this chapter, shall have the following respective meanings:

Affiliated group:

(1) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:

a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and

b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of at least one of the other includable corporations.

As used in this definition, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(2) Two (2) or more corporations if five (5) or fewer persons who are individuals, estates or trusts own stock possessing:

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

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

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

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

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 this chapter or any other provision of law for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor: The commissioner of the revenue of the City of Virginia Beach.

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

Business: A course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) 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 thirty (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; it may also include real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

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.

Gross receipts: The whole, entire, total receipts without deduction.

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

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 § 58.1-3701 of the Code of Virginia. 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.

(Code 1965, § 20-2; Ord. No. 2363, 1-9-96; Ord. No. 2436, 1-28-97; Ord. No. 2569, 12-14-99; Ord. No. 2594, 6-27-2000)

Sec. 18-3. - Designation and general duties of license inspector and assistants.

The commissioner of revenue shall designate some person in his office to act as license inspector and such assistant license inspectors he may deem necessary. The license inspector and the assistant license inspectors shall see that the provisions of this chapter are enforced. The license inspector or any assistant license inspector shall make such reports to the commissioner of revenue as may be required and perform any service required by the commissioner of revenue in connection with the enforcement of the provisions of this chapter. It is hereby specifically made the duty of the license inspector, his assistants, and the police department to issue summonses to any person found to be in violation of this chapter to come before the general district court of the city.

(Code 1965, § 20-3; Ord. No. 1488, 9-10-84)

Sec. 18-4. - Adoption of state law.

As to all questions in regard to the duty or conduct of officers of the city in collecting and enforcing the license taxes imposed by this chapter, and in regard to questions of construction, and for definitions of terms used in this chapter and the rules and regulations applicable to putting the same in operation, reference is hereby made to the laws of the state for the assessment, levy and the collection of taxes for the current year, or to so much thereof as is applicable to this chapter and is not inconsistent with it and the general ordinances of the city. For the conduct and guidance of the officers of the city and other parties affected by this chapter, and for fixing their powers, rights, duties and obligations, the provisions of such laws, so far as applicable, are hereby adopted, without being specifically herein quoted.

(Code 1965, § 20-28)

Sec. 18-5. - General requirements.

(a) Every person who, in the City of Virginia Beach, engages in any business, trade, profession, occupation or calling (collectively hereinafter a "business"), as defined in this chapter, unless otherwise exempted by law, shall apply for a license for each such business if (i) the person has a definite place of business in the City of Virginia Beach; (ii) there is no definite place of business anywhere and the person resides in the City of Virginia Beach; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715 of the Code of Virginia, or a public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two (2) or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses

and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the City of Virginia Beach; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the commissioner of the revenue may require concerning the nature of the several businesses and their gross receipts.

(b) It shall be unlawful for any person to engage in or conduct a business, occupation or profession or do any other thing for which a license tax is required under this chapter, without first obtaining the requisite license and any tag, sign or other evidence thereof required by this chapter.

(c) A violation of this section shall constitute a Class 2 misdemeanor. Any person convicted of a second violation of this section within less than five (5) years of a previous conviction for a violation of this section shall be guilty of a Class 1 misdemeanor. Conviction of such violation shall not relieve any person from the payment of any license tax imposed by this chapter.

(Ord. No. 2436, 1-28-97; Ord. No. 2569, 12-14-99)

Sec. 18-5.1. - Revoked, denied or suspended license; penalty for operation.

(a) It shall be unlawful and unless otherwise provided, a Class 1 misdemeanor, for any person who has been denied a license or whose license has been suspended or revoked because of failure to meet or maintain eligibility criteria established by this chapter, to engage thereafter in the business, profession or activity for which the license is denied, suspended or revoked. Each day of operation shall be a separate violation of this section. Conviction of such violation shall not relieve any person from the payment of any license tax imposed by this chapter.

(b) For purposes of this section, no license shall be deemed to be denied, suspended or revoked, except after written notice mailed or personally delivered to the applicant or licensee stating the basis for such proposed action, and setting forth a time and place for a hearing before the commissioner of revenue or his designee. After a hearing on the issues or in the event that the applicant or licensee shall fail to appear the commissioner of revenue may refuse to issue or may suspend or revoke such license if he determines that the applicant or licensee has not met or has failed to maintain any required criteria, including, but not limited to zoning, insurance coverage and financial accountability, established by this chapter.

(Ord. No. 1747, 11-16-87)

Sec. 18-5.2. - License fees and taxes.

Effective January 1, 1997, every person required by section 18-5 of this chapter to have a business license shall pay the following license fees and taxes, as applicable, unless specifically provided otherwise:

(a) Businesses with gross receipts during the preceding calendar year of twenty-five thousand dollars ($25,000.00) or less shall pay a fee of twenty-five dollars ($25.00);

(b) Businesses with gross receipts during the preceding calendar year of between twenty-five thousand and one dollars ($25,001.00) and one hundred thousand dollars ($100,000.00) shall pay a fee of forty dollars

($40.00);

(c) Businesses with gross receipts during the preceding calendar year of between one hundred thousand and one dollars ($100,001.00) and two hundred thousand dollars ($200,000.00) shall pay a fee of fifty dollars ($50.00);

(d) Businesses with gross receipts during the preceding calendar year of greater than two hundred thousand dollars ($200,000.00) shall pay a license tax on gross receipts. Such license tax shall be calculated by applying the specific percentage rate provided in this chapter for each different classification of business to the amount of a business' gross receipts; and

(e) For purposes of this section, the term "gross receipts" shall include, but not be limited to, the following: gross receipts, gross sales, gross commissions, gross contracts or orders.

(Ord. No. 2390, 5-14-96; Ord. No. 2462, 11-18-97; Ord. No. 2489, 5-12-98; Ord. No. 3717, § 1, 12-6-22)

Secs. 18-6, 18-7. - Reserved.

Editor's note— Sections 18-6 and 18-7, pertaining to separate license for each place and class of business and effect of advertising a business, and derived from Code 1965, §§ 20-5, 20-19, 20-20, were repealed by Ord. No. 2363, adopted Jan. 9, 1996.

Sec. 18-8. - Levy and purposes of taxes.

Effective January 1, 1997, for each year, beginning with the first day of January and ending with the thirty-first day of December following, there are hereby imposed and levied, and there shall be collected, the annual license taxes and fees set forth in this chapter, on persons conducting or engaged in businesses, occupations or professional employments in the City of Virginia Beach, which shall be for the purpose of providing funds for the operation of the city government, the payment of the city debt and for other municipal purposes.

(Code 1965, § 20-6, Ord. No. 2363, 1-9-96; Ord. No. 2569, 12-14-99)

Sec. 18-9. - Tax not imposed contrary to state or federal law.

Nothing in this chapter contained shall be construed as imposing any license tax on any business, occupation or professional employment, or on any part thereof, which license tax the city is prohibited by federal or state law from imposing.

(Code 1965, §§ 20-7, 20-156, 20-165, 20-172)

Sec. 18-10. - Measurement of tax based on gross receipts, gross sales, etc.

(a) Whenever in this chapter it is provided that any person shall pay a license tax based or partly based on gross receipts, gross sales, gross purchases, gross commissions, gross contracts or orders or graduated in any other way (hereinafter, "gross"), so much of the license tax as is so based shall be measured by the gross for the preceding calendar year ending on the thirty-first day of December; provided, however, that whenever any such person was not engaged in such business, occupation or professional employment on which such license tax is imposed for the full preceding calendar year ending on the thirty-first day of December, so

much of such license tax as is based on gross shall be measured by the estimated gross that will be made and received from the first day of the then current license year to the last day of such license year, unless otherwise specifically provided in this chapter. Whenever any person begins a business, occupation or professional employment on or after the first day of the license year, so much of the license tax imposed by this chapter as is based on gross shall be measured by the estimated gross that will be made and received from the commencement of the business, occupation or professional employment to the end of the license year.

(b) Whenever a license tax is assessed on the basis of estimated gross, every underestimate thereof shall be subject to correction by the commissioner of the revenue, and it shall be her or his duty to assess such person with such additional license tax as may be found to be due after the close of the license year on the basis of the true amount of such gross.

(Code 1965, § 20-9; Ord. No. 2363, 1-9-96)

Sec. 18-10.1. - Situs of gross receipts.

(a) *General rule.* Whenever the tax imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the City of Virginia Beach. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which services are performed, or if services are not performed at any definite place of business, then the definite place of business from which services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715 of the Code of Virginia, as amended;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares or merchandise are made to customers. Any wholesaler who is subject to a license tax in two (2) or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of the purchases and gross receipts subject to the license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed; and

(4)

The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the City of Virginia Beach solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The commissioner of the revenue may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that his or her method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to result in, taxes on more than one hundred (100) percent of its gross receipts from all locations in the affected jurisdictions, the commissioner of the revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the commissioner of the revenue or the taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701 of the Code of Virginia, as amended; and notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993 of the Code of Virginia, as amended, when a taxpayer has demonstrated to a court that two (2) or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of § 58.1-3986 of the Code of Virginia, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Ord. No. 2363, 1-9-96; Ord. No. 2436, 1-28-97)

Sec. 18-10.2 - Exclusions and deductions from "gross receipts."

(a) *General rule.* Gross receipts for license tax purposes shall only include amounts derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) *Exclusions and deductions.* Exclusions and deductions from gross receipts shall be governed by the provisions of § 58.1-3732 of the Code of Virginia, which is hereby incorporated by reference, along with any future amendments thereto.

(Ord. No. 2569, 12-14-99)

Sec. 18-11. - Reserved.

Editor's note— Section 18-11, pertaining to allowance for freight in computing tax, and derived from Code 1965, § 20-17, was repealed by Ord. No. 2363, adopted Jan. 9, 1996.

Sec. 18-12. - Application generally.

(a) Every person desiring to obtain a license to prosecute any business, employment, profession or to do anything for which a license is required under this chapter shall make application therefor in writing to the commissioner of revenue, in which shall be stated the residence of the applicant, the nature of the business, employment, profession or thing to be done, the place where it is proposed to be prosecuted and, in case the business to be licensed is taxed upon a graduated scale based or partly based on gross receipts, gross sales, gross purchases, gross commissions, gross contracts or orders or graduated in any other way, shall make such statement under oath as is required by this chapter.

(b) It shall be the duty of every person doing business, carrying on any trade or calling or practicing any profession within the city and of any person who shall open an office, have a place of business or shall, by use of signs or otherwise, advertise any business, trade or profession within the city, to make application to the commissioner of revenue for the license required by this chapter.

(c) It shall be the duty of the commissioner of revenue to keep a record of all applications filed pursuant to this section.

(Code 1965, §§ 20-10, 20-11)

Sec. 18-13. - Sworn statement required in case of graduated tax.

(a) Every person liable, under this chapter, to a license tax based upon the amount of his actual or probable purchases or sales or of his actual or probable commissions or of the gross receipts from his business or profession or graduated in any other way shall, before being granted the license in question, file with the commissioner of revenue a statement, in writing and sworn to before notary public or the commissioner of revenue, upon forms to be prepared by the city attorney, stating the amount of his actual or probable purchases or sales or of his actual or probable commissions or of the gross receipts from his business or profession or any other matter that may be pertinent to the assessment or the tax on such license. In the case of a corporation, such statement shall be sworn to by the chief officer or agent resident in the city or in charge of the business of such a corporation, and in case of a firm, by any member thereof. The form shall be such that the application, filed as provided in section 18-12, and such statement shall be separately made and signed.

(b) Any person who shall fail or refuse to file any statement required by this section or who shall make any false statement therein shall be guilty of a Class 2 misdemeanor.

(Code 1965, §§ 20-12, 20-14)

Sec. 18-14. - Use of interrogatories and other evidence to ascertain amount of tax.

As one of the means of ascertaining the amount of any license tax due under this chapter, the commissioner of revenue may propound interrogatories to an applicant and use such other evidence as he may procure. Such interrogatories shall be answered under oath. Any applicant refusing to answer such interrogatories under oath shall be guilty of a misdemeanor and, upon conviction thereof, fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00).

(Code 1965, § 20-13)

Sec. 18-15. - Dates for application and payment.

(a) (i) Each person required to obtain a license by this chapter shall apply for such license prior to beginning business if he or she was not licensable in the City of Virginia Beach on or before January 1 of the license year; persons issued a license for the preceding license year shall apply no later than March 1 of the current license year.

(ii) The application shall be on forms prescribed and provided by the commissioner of the revenue.

(b) The tax or fee shall be paid with the application in the case of any license not based on gross receipts or purchases. If the tax is measured by the gross receipts or purchases of the business, the tax shall be paid on or before March 1 of the license year.

(c) The commissioner of the revenue may, for good cause, grant an extension of time, not to exceed ninety (90) days, in which to file an application for a license. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten (10) percent of the portion paid after the due date.

(Code 1965, § 20-8; Ord. No. 2363, 1-9-96; Ord. No. 2569, 12-14-99)

Sec. 18-16. - Penalties and interest for late payment of tax; interest on refunds.

(a) A penalty of ten (10) percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the commissioner of the revenue if both the application and payment are late; however, both penalties may be assessed if the commissioner of the revenue determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the commissioner of the 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, or any 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 the revenue is not paid within thirty (30) days, the treasurer or other collecting official may impose a ten (10) percent late payment penalty. Any such penalty when so assessed shall become a part of the tax. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he or she acted responsibly and that the failure was due to events beyond his or her control.

For purposes of this section, "acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the same or similar circumstances in determining the filing obligations for the business, and (ii) 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 discovered.

"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 (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 the revenue, who was aware of the relevant facts relating to the taxpayer's business when the erroneous information was provided.

(b) Interest at the rate of ten (10) percent per annum 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 additional or omitted tax by the commissioner of the 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 license tax paid from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged for late payments under this section.

(c) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty (30) days from (i) the date of the payment that created the refund, or (ii) the due date of the tax, whichever is later.

(Code 1965, § 20-8.1; Ord. No. 1519, 3-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2436, 1-28-97; Ord. No. 2462, 11-18-97; Ord. No 2479, 3-24-98)

Sec. 18-17. - Assessment of additional tax.

Whenever the commission of revenue shall ascertain that any person should be assessed with any additional license tax pursuant to the provisions of this chapter, it shall be his duty thereupon to assess such person with such additional tax as may be so ascertained by him to be due. The commissioner of revenue shall mail a copy of such assessment to the person against whom assessed and shall also transmit a copy thereof to the city treasurer for collection.

(Code 1965, § 20-15)

Sec. 18-18. - Proration of tax.

(a) In the event any person required to obtain a license under the provisions of this chapter, the tax for which is not measured by gross receipts, gross sales, gross purchases, gross commissions, gross contracts or orders or graduated in any other way, shall begin any business, occupation or employment after the first day of January of the license year, the license tax shall be prorated as follows: If such business, occupation or

employment is begun on or before March 31 of the license year, the full license tax shall be paid; if begun after March 31 and on or before June 30 of the license year, three-fourths of the license tax shall be paid; if begun after June 30 and on or before September 30 of the license year, one-half of the license tax shall be paid; and if begun after September 30 of the license year, one-fourth of the license tax shall be paid; provided, however, that no such license tax shall be subject to such proration where proration is expressly prohibited or where the amount of the license tax is fixed for any part of the license year or where the license tax or fee for the whole year is fifty dollars ($50.00) or less.

(b) Regardless of the basis or method of measurement or computation, in the event a person ceases to engage in a business within the city during a year for which a license tax based on gross receipts on a business, trade, profession, occupation or calling has already been paid, the taxpayer shall be entitled upon application to the commissioner of the revenue to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the license privilege is taxed only for that fraction of the year during which it is exercised within the city. In no event shall the city refund any part of a flat fee or minimum flat tax.

(Code 1965, § 20-9; Ord. No. 1412, 11-7-83; Ord. No. 2363, 1-9-96; Ord. No. 2569, 12-14-99)

Sec. 18-19. - Effect of payment of tax on personal or professional services by corporation, partnership or employer.

(a) In the case of personal services and professional services, when the business taxed is conducted by a corporation or partnership, the license tax shall be imposed upon the gross receipts of the corporation or partnership, and paid by it, and when so paid, and also when paid by an individual employing persons who otherwise would be liable to a license tax, it shall be deemed to discharge the license tax liability of all officers, partners or other persons who share as partners, or receive their entire compensation as officers or employees, from the gross receipts upon which the tax is based; provided, that the tax paid shall in no case be less than the aggregate of the minimum taxes which, except for this provision, would be due from such officers, partners or employees.

(b) In case a person who otherwise would be liable to a license tax under personal services and professional services classifications is employed on a part-time basis by a person, firm or corporation who pays a license tax under personal services and professional services classifications based upon the entire gross receipts of the business, such person shall be liable, independently, to the license tax, but may, in computing the amount, deduct so much of his gross receipts as is included in the gross receipts upon which the tax has been paid by his employer.

(Code 1965, § 20-27)

Sec. 18-20. - Assessment of tax and issuance of license generally.

(a) The commissioner of the revenue shall assess each applicant for a license or other person whom a license is required under this chapter with a license tax required by this chapter and shall issue a license, signed by him, to such applicant or other person to prosecute the business, employment, profession or thing to be done therein named.

(b)

Notwithstanding the provision of subsection (a), no such license shall be issued until such applicant has produced satisfactory evidence that all delinquent business license, business personal property, meals, transient occupancy and admissions taxes owed by the business to the city have been paid which have been properly assessed against the applicant by the city.

(Code 1965, § 20-18; Ord. No. 2084, 7-9-91; Ord. No. 2569, 12-14-99)

Sec. 18-21. - Not to be issued contrary to zoning ordinance.

The commissioner of revenue shall not issue a license under this chapter for conducting any business or practicing any profession or calling at a location where the conduct or practice of the same is prohibited by the zoning ordinance of the city.

(Code 1965, § 20-31)

Cross reference— Zoning ordinance, App. A.

Sec. 18-22. - Insurance prerequisite to issuance for rental of certain vehicles.

(a) No license shall be issued for the rental of self-propelled vehicles having less than four (4) wheels until the applicant therefor shall have presented a certificate, approved by the city attorney as to form and surety, of personal liability insurance coverage in the amount of $100,000.00 per person and $300,000.00 per accident and property damage liability insurance in the amount of $10,000.00.

(b) For the purposes of this section, the term "self-propelled vehicles having less than four (4) wheels" shall include mopeds, as defined in section 7-1 of this Code.

(Code 1965, § 20-59.2; Ord. No. 1083, 8-25-80)

Sec. 18-22.1 - Insurance prerequisite to issuance of license to any business which rents personal watercraft.

(a) No license shall be issued to any business which provides personal watercraft for rent until the applicant therefor shall have presented a certificate of liability insurance, approved by the city attorney as to form and surety, in an amount of not less than one million dollars ($1,000,000.00) per occurrence which insurance shall provide coverage for claims of death, bodily injury and/or property damage resulting from the operation of such personal watercraft.

(b) For purposes of this section, the term "personal watercraft" means a motorboat less than sixteen (16) feet in length which uses an inboard motor powering a jet pump as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

(c) This section shall be applicable to any business described in subsection (a) which applies for a new business license, or renewal of an existing business license, after August 11, 1998.

(Ord. No. 2502, 8-11-98)

Sec. 18-23. - Prerequisite to validity.

A license issued under this chapter shall not be valid or effective unless and until the tax required by this chapter is paid to the city treasurer, as collector of city taxes and levies, and such payment shall be shown on the license. If the business in question is one for which a license can be granted only on a certificate of a court or other officer, such license shall not be valid or effective until such certificate is obtained.

(Code 1965, § 20-18)

Sec. 18-24. - Designation of place of business.

Every license issued by the commissioner of revenue, unless expressly authorized elsewhere or otherwise, shall designate a definite place within the city at which the business, employment or profession is to be engaged in or conducted. Any person exercising the privilege granted by such license or engaging in or conducting such business, employment or profession elsewhere than at such definite place, unless expressly authorized elsewhere or otherwise, shall be held to be without a license.

(Code 1965, § 20-21)

Sec. 18-25. - Display of license, etc.

Except as otherwise provided, every person required to pay a license tax or obtain any tag or sign under the provisions of this chapter shall keep his license, tag or sign in a convenient place and, whenever required to do so, shall exhibit the same to any member of the police department duly detailed or authorized to inspect such license, tag or sign or to the license inspector. Any person violating the provisions of this section or any person failing to properly display any license, tag or sign required under this chapter to be displayed in a particular way shall be guilty of a Class 4 misdemeanor.

(Code 1965, § 20-22)

Sec. 18-26. - Transfer of license.

(a) Licenses issued under this chapter shall be transferable, except where otherwise provided, but in no case shall any transfer of the license be legal or valid, until notice in writing has been given to the commissioner of revenue and he has approved such transfer in writing on the license. Such notice shall state the time of the transfer, the place of business and the name of the person to whom transferred. Any person transferring or attempting to transfer any license contrary to the provisions of this subsection shall be guilty of a Class 4 misdemeanor.

(b) The commissioner of revenue shall keep a record of transfers made pursuant to this section.

(Code 1965, §§ 20-23, 20-24)

Sec. 18-27. - Recordkeeping and audits.

(a) Every person who is assessable with a license tax shall keep sufficient records to enable the commissioner of the revenue to verify the correctness of the tax paid for the license years assessable, and to enable the commissioner of the revenue to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the commissioner of the revenue to allow the commissioner to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the City of Virginia Beach. The commissioner of the revenue shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the City of Virginia Beach, copies of the appropriate books and records shall be sent to the commissioner's office upon demand.

(b) Any person who shall fail or refuse to keep the invoices and records required by this section shall be guilty of a Class 4 misdemeanor.

(Code 1965, § 20-25; Ord. No. 2363, 1-9-96)

Sec. 18-28. - Records relating to solicitors of laundry, cleaning, dyeing and pressing work.

Every person engaged in the business of doing laundry or cleaning, dyeing and pressing work, whose plant, where such work is done, is located in the city and who has one or more solicitors for such work, who are not among his regular employees, as determined by his social security records, shall keep an accurate record showing the names and addresses of such solicitors, the gross amount of such work received from each such solicitor and the amount of discounts allowed each such solicitor. Any person failing or re fusing to keep such records shall be guilty of a Class 4 misdemeanor.

(Code 1965, § 20-26)

Sec. 18-29. - Examination and audit of licensee's records.

(a) The commissioner of revenue, his duly authorized agent, or any other officer of the city charged in any manner with the duty of assessing or collecting taxes may conduct an investigation, examination or audit to determine that the amount of actual purchases or sales or actual commissions or the gross or net receipts from any business or profession or any other matters that may be pertinent to the assessment of the license tax in question have been correctly reported or returned in accordance with section 18-13. To that end, the commissioner of revenue may summon such person before him and require the production of his records, books and papers likely to throw any light upon the matter under investigation and may make, or cause to be made, such other and further investigations, examinations and audits of the records, books and papers of such person as he shall deem proper in order to determine accurately the proper return to be made by such person.

(b) If, after an investigation, examination or audit under this section, it shall appear that purchases, sales, commissions, receipts or other matters pertinent to the assessment have been incorrectly reported or returned, the commissioner of revenue shall assess such person with the proper city license tax. If, as a result of such investigation, examination or audit, additional tax is assessed, a penalty as provided by section

18-16 shall be imposed on the increased assessment. Such penalty shall become a part of the increased assessment. Interest as provided in section 18-16 shall also be added to such increased assessment from the date the increased assessment would have been due under this chapter had the return been correctly reported.

(c) Any person who shall fail to appear before the commissioner of revenue or his duly authorized representative and produce such records, books and papers, when duly summoned, or who shall refuse to permit the commissioner of revenue or his duly authorized representative to make or cause to be made such other and further investigation and audit of such books and papers, shall be guilty of a Class 3 misdemeanor.

(Code 1965, § 20-16; Ord. No. 1230, 10-12-81; Ord. No. 1520, 3-4-85; Ord. No 2479, 3-24-98)

Sec. 18-30. - Chapter does not repeal ordinances imposing other taxes.

Nothing in this chapter contained shall be construed to repeal any tax imposed by ordinance upon motor vehicles and other vehicles, persons, property, admissions, charges for utility services or any subject not mentioned in this chapter.

(Code 1965, § 20-29)

Sec. 18-31. - Peddlers' licenses do not authorize violation of motor vehicle and traffic laws.

Peddlers' licenses, the license taxes for which are established in sections 18-93, 18-94, 18-95 and 18-96 of this Code shall not be construed to authorize any violations of the motor vehicle and traffic laws of the city, except that during the hours of lawful operation, the operator of a vehicle peddling on the streets, may ring a bell approved by the chief of police, subject to any provisions of this Code or other ordinance regulating the use of such bell.

(Code 1965, § 20-154)

Cross reference— Motor vehicles and traffic, Ch. 21; use of bell on vehicle used by certain street vendors, § 13-54.

Sec. 18-32. - Permit required.

(a) No person shall engage in the activities of a dealer as defined in section 18-76.1, pawnbroker, junk dealer, or secondhand dealer without first obtaining a permit from the chief of police.

(b) To obtain a permit, the applicant shall file with the chief of police an application form which includes the applicant's full name, any aliases, address, age, date of birth, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the applicant's place of business. Upon filing this application and the payment of the permit fee set forth in subsection (g) of this section, the applicant shall be issued a permit by the chief of police or his or her designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven (7) years prior to the date of application. Further, the permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any statute or ordinance similar in substance to the provisions of this section, and may be denied if the applicant has been a principal or associate in any partnership, corporation or other business enterprise which has been subject to civil or criminal penalty or any order to cease doing business issued by a federal, state, or local governmental law enforcement or consumer protection agency.

(c) The chief of police, prior to issuance or renewal of a permit, shall determine that the applicant intends to conduct business at a fixed and permanent location, and shall require proof of ownership of the proposed business premises by the applicant or the applicant's employer, or evidence of a valid lease of such premises held by the applicant or the applicant's employer. Conduct of business from a hotel, motel, temporary lodging unit or similar location shall not satisfy the requirements of this section.

(d) No more than sixty (60) days prior to issuance of the permit required by this section, the applicant must have any weighing devices used in the business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the chief of police or his or her designee.

(e) This permit shall be valid until the end of the current business license year and may be renewed in the same manner as such permit was initially obtained upon payment of an annual permit fee. No permit shall be transferable.

(f) If the business of the applicant is not operated without interruption, with Saturdays, Sundays and recognized holidays excepted, the applicant shall notify the chief of police of all closings and reopenings of such business. The business of an applicant shall be conducted only from the fixed and permanent location specified in the application for a permit.

(g) The initial and annual permit fee shall be the amount set forth in section 27-3(b)(5) for a dealer as defined in section 18-76.1, and two hundred dollars ($200.00) for a pawnbroker, or secondhand dealer, and fifty dollars ($50.00) for a junk dealer; provided, however, that if an applicant applies for an initial or renewal permit as a dealer of precious metals and gems at the same time as the applicant applies for an initial or renewal permit as a pawnbroker, junk dealer or secondhand dealer, the applicant need only pay the permit fee for the dealer of precious metals and gems. If the chief of police refuses to issue such permit, the applicant shall be notified, in writing, of the reasons for the refusal and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Ord. No. 2363, 1-9-96; Ord. No. 3130, 5-11-10; Ord. No. 3151, 9-14-10; Ord. No. 3169, 4-26-11; Ord. No. 3451, § 1, 5-10-16; Ord. No. 3463, 9-20-16; Ord. No. 3492, 3-21-17)

Note— The effective date of this section shall be July 1, 2016.

Sec. 18-33. - Limitations, extensions, appeals and rulings.

(a) Whenever, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this chapter, both the commissioner of the revenue and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903 of the Code of Virginia, the commissioner of the revenue shall assess the local license tax omitted because of fraud or failure to apply for a license for the current year and the six (6)preceding license years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940 of the Code of Virginia, two (2) years after the date of assessment if the period has been extended pursuant to subsection (a) of this section, two (2) years after the final determination of an appeal for which collection has

been stayed pursuant to subsection (e) or (g) of this section, or two (2) years after the final decision in a court application pursuant to § 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

(d) Any person assessed with a tax under this chapter as the result of an appealable event as defined in this section may within one (1) year from the last day of the tax year for which such assessment is made, or within one (1) year from the date of the appealable event, whichever is later, to the commissioner of the revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner of the revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The commissioner of the revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the commissioner's position. Every assessment pursuant to an appealable event shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the City of Virginia Beach.

(e) Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the commissioner of the revenue, unless the commissioner determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection (b) of section 18-16 of this chapter, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove property therefrom, (iii) to hide or hide property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(f) Any person assessed with a tax under this chapter as a result of a determination, upon an application for correction pursuant to subsection (d), that is adverse to the position asserted by the taxpayer in such application may apply within ninety (90) days of the determination by the commissioner of the revenue to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the commissioner of the revenue are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821 of the Code of Virginia, as amended, and the tax commissioner may issue an order correcting such assessment pursuant to § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to § 58.1-3984 of the Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the tax commissioner is erroneous. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(g)

On receipt of a notice to file an appeal to the tax commissioner under subsection (f) of this section, the commissioner of the revenue shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the commissioner determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with subsection (b) of section 18-16 of this chapter, but no further penalty shall be imposed while collection activity is suspended. The term "jeopardized by delay" shall have the same meaning as provided in subsection (e) of this section.

(h) Any taxpayer may request a written ruling from the commissioner of the revenue regarding the application of the tax to a specific situation. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the department of taxation upon which the ruling was based, or (ii) the commissioner of the revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts in reliance upon a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(i) For purposes of this section, "appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the commissioner of the revenue's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment, (ii) determination regarding the rate or classification applicable to the licensable business, (iii) assessment of a local license tax when no return has been filed by the taxpayer, or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

(j) Any taxpayer whose application for correction pursuant to the provisions of subsection (d) has been pending for more than two (2) years without the issuance of a final determination may, upon not less than thirty (30) days' written notice to the commissioner of the revenue, elect to treat the application as denied and appeal the assessment to the tax commissioner in accordance with the provisions of subsection (f). The tax commissioner shall not consider an appeal filed pursuant to the provisions of this subdivision if he finds that the absence of final determination on the part of the commissioner of the revenue was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner of the revenue to make his determination.

(Ord. No. 2363, 1-9-96; Ord. No. 2436, 1-28-97; Ord. No. 2705, 6-25-02)

Secs. 18-34—18-45. - Reserved.

ARTICLE II. - LICENSE TAX SCHEDULE

Footnotes:
*--- (**2**) ---*

Cross reference— *Dog license tax, § 5-48; license tax on vehicles, § 21-75; gross receipts tax on bus operators in lieu of license tax, § 36-19.*

Sec. 18-46. - Unclassified businesses or trades.

For every person engaged in any business or trade not subject to a specific license tax under the provisions of this chapter or other ordinance of the city the license tax rate shall be 0.36 percent of the gross receipts, in such business or trade during the preceding calendar year.

(Code 1965, § 20-35; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-47. - Agents for selling books, magazines and periodicals.

(a) The license tax rate for each agent selling books, magazines and periodicals shall be 0.36 percent of the gross receipts attributable to the business conducted within the city during the preceding calendar year. In addition, a fee of twenty dollars ($20.00) will be collected from each agent granted a permit to sell door-to-door.

(b) A license, the tax for which is set out in this section, shall not authorize the licensee to sell, offer for sale or solicit the sale of any books, magazines or periodicals on the streets, lanes, alleys or public places in the city unless compliance shall have been made with all applicable provisions of chapter 26 of this Code.

(Code 1965, §§ 20-68, 20-69; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-48. - Agricultural service businesses.

(a) The license tax rate for every person engaged in any agricultural service business shall 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Agricultural service businesses, as referred to in this section, shall include those businesses set out below and any miscellaneous agricultural service businesses not elsewhere classified:

(1) Grist mills, including custom flour mills.

(2) Crop dusting: contract.

(3) Crop spraying: contract.

(4) Weed control, on a contract or fee basis.

(5) Animal hospitals.

(6) Animal husbandry services:

a. Animal breeding and training.

b. Dog grooming shops.

c. Kennels.

(7) Horticultural services.

(Code 1965, § 20-53; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-49. - Alcoholic beverages—Generally.

(a) Every person engaged in manufacturing, bottling, selling or dispensing alcoholic beverages shall pay license taxes in the following sums, per annum:

(1) For each distiller's license, if more than five thousand (5,000) gallons of spirits are manufactured during the license year but not more than thirty-six thousand (36,000) gallons manufactured during such year, seven hundred and fifty dollars ($750.00); if more than thirty-six thousand (36,000) manufactured during such year, including bottling, one thousand dollars ($1,000.00); and no local license shall be required for any person who manufactures not more than five thousand (5,000) gallons of alcohol or spirits, or both, during such license year.

(2) For each winery license, fifty dollars ($50.00).

(3) For each brewery license, including bottling, one thousand dollars ($1,000.00), except if the brewery manufactures less than five hundred (500) barrels during the year in which case the brewery license for such person shall be two hundred and fifty dollars ($250.00).

(4) For each bottler's license, five hundred dollars ($500.00).

(5) For each wholesale beer license, two hundred fifty dollars ($250.00).

(6) For each wholesale wine distributor's license, fifty dollars ($50.00).

(7) For each retail on-premises wine and beer license for a hotel, restaurant, gift shop, gourmet shop, convenience grocery store or club; for each retail off-premises wine and beer license; and for each on and off-premises wine and beer license, one hundred fifty dollars ($150.00).

(8) For each retail on-premises beer license for a hotel, restaurant or club; for each retail off-premises beer license; for each on- and off-premises beer license; and for each druggist license, one hundred dollars ($100.00).

(9) For each bed & breakfast license, forty dollars ($40.00).

(10) For each day spa license, twenty dollars ($20.00).

(11) For each farm winery license, fifty dollars ($50.00).

(12) For each annual arts venue event license, twenty dollars ($20.00).

(13) For each art instruction studio license, twenty dollars ($20.00).

(b) The licenses referred to in subsection (a) above shall be as respectively defined by the Alcoholic Beverage Control Act of the state, as amended, and the terms "alcoholic beverages", "alcohol", "spirits", "beer" and "wine", wherever used in this section shall have the meanings respectively ascribed to them by such act.

(c) No license shall be issued under this section to any person, unless such person shall hold or shall secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act. Such state license shall be exhibited to the commissioner of revenue.

(d) Any license issued under this section may be amended to show a change in the place of business within the city. Any such license may be transferred from one person to another; provided the person to whom transferred holds, at the same time, a similar license from the state alcoholic beverage control commission.

(e)

In imposing wholesale merchant's license taxes measured by purchases and retail merchant's license taxes measured by sales and restaurant license taxes measured by sales under the provisions of this chapter, other than the provisions of this section, alcoholic beverages shall be included in the base or bases for measuring such license taxes the same as if the alcoholic beverages were nonalcoholic. No alcoholic beverage license tax levied under this section shall be construed as exempting any licensee from any merchant's or restaurant license tax, and such merchant's and restaurant license taxes shall be in addition to the alcoholic beverage license taxes levied hereby; provided, however, that in determining the liability of a beer wholesaler or wholesale wine distributor to merchant's license taxation under this chapter, there shall be deducted from such merchant's license tax the amount of the specific license tax imposed under this section and paid by such beer wholesaler or wholesale wine distributor.

(Code 1965, §§ 20-75—20-79; Ord. No. 1171, 4-29-81; Ord. No. 2944, 6-6-06; Ord. No. 2965, 1-9-07; Ord. No. 3362, 7-1-14; Ord. No. 3472, 12-6-16)

Cross reference— Use of pool tables, pinball machines, etc., prohibited during certain hours in establishments selling alcoholic beverages, § 4-3.

State Law reference— Alcoholic Beverage Control Act, Code of Virginia, § 4-1 et seq.; authority for above tax, § 4-38.

Sec. 18-50. - Same—Mixed beverages.

(a) Every person engaged in the business of selling mixed alcoholic beverages shall pay a license tax in the following sums:

(1) Persons operating restaurants, including restaurants located on the premises of and operated by hotels or motels:

a. $200.00 per annum for each restaurant with a seating capacity at tables for up to 100 persons;

b. $350.00 per annum for each restaurant with a seating capacity at tables for more than 100 but not more than 150 persons; and

c. $500.00 per annum for each restaurant with a seating capacity at tables for more than 150 persons.

(2) A private, nonprofit club operating a restaurant located on the premises of such club, $350.00 per annum.

(3) A mixed beverage caterer, $250.00 per annum.

(4) An amphitheater, $300.00 per annum.

(5) A mixed beverage performing arts facility, $300.00 per annum.

(b) No license shall be issued under this section to any person, unless such person shall hold or secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act of the state, as amended.

(c) Any license referred to in this section may be amended to show a change in the place of business within the city. Any such license may be transferred from one person to another; provided the person to whom it is transferred holds, at the same time, a similar license from the state alcoholic beverage control commission.

(d) No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in passenger trains, boats, airplanes, or rooms designated by the Board of establishments of air carriers of

passengers at airports in the Commonwealth for on-premises consumption only.

(Code 1965, §§ 20-79.1—20-79.3; Ord. No. 2944, 6-6-06; Ord. No. 3472, 12-6-16)

State Law reference— Alcoholic Beverage Control Act, Code of Virginia, § 4-1 et seq.; authority for above tax, § 4-98.19.

Sec. 18-51. - Reserved.

Editor's note— Ord. No. 1307, adopted July 12, 1982, repealed § 18-51, which had set a license tax for beer delivery trucks and solicitors. Said section derived from Code 1965, § 20-74.

Sec. 18-52. - Amusement and recreation service businesses.

(a) The license tax rate for every person engaged in any amusement and recreation service business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Amusement and recreation service businesses referred to in this section shall include those businesses set out below and any miscellaneous amusement and recreation service businesses not elsewhere classified:

(1) Dance studios and schools.

(2) Theatrical producers.

(3) Bowling alleys.

(4) Sports promoters.

(5) Skating rinks.

(6) Amusement centers.

(7) Golf clubs.

(8) Race track operations.

(9) Motion picture services industries.

(Code 1965, § 20-83; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-53. - Amusement parks.

(a) The owner or operator of any permanent park for public amusement in the city open to the public shall, for the privilege of operating within such park a bowling alley, hobby horse, merry-go-round, ferris wheel, old mill, dip-the-dips and other similar amusements, bathhouses, boat houses, parking lots and the following coin-operated devices: Machines for exhibiting pictures, automatic photo machines, baseball machines, bowling alley machines, hockey machines, auto testing machines, machines for testing strength or grip, electronic gun and rifle machines, aeroplane-testing machines, basketball machines, foot-ease machines, weight scale machines, punching bag machines, tractor machines, crane machines, voice-recording machines and similar coin-operated amusement devices that are usual to an amusement arcade operation, other than coin-operated pinball machines, shall pay the license tax rate of 0.36 percent of the gross receipts, exclusive of any federal and city admission tax thereon, from all such activities, except the gross receipts from the operation of such bathhouses, boat houses and parking lots; provided, that coin-operated pinball machines shall be separately licensed under the law relating thereto.

(b) When an amusement park has six (6) or less of the amusements enumerated in subsection (a) of this section, the owner or operator shall pay $100.00 for each amusement and, in addition thereto, 0.36 percent of the gross receipts from all the amusements, exclusive of any federal and city admission tax thereon.

(c) Whenever any amusement within an amusement park is operated by a person other than the operator of such park, such person shall pay for such amusement the license tax rate of 0.36 percent of the gross receipts therefrom, exclusive of any federal and city admission tax thereon.

(d) Any person, other than the operator of an amusement park, who shall operate any amusement within such park, for which tickets are not sold, such as recording the voice, guessing one's weight, testing one's strength and the like, shall pay the license tax rate of 0.36 percent of the gross receipts therefrom.

(e) Any person operating any concession, amusement enterprise or other like business enterprise, for which a license tax is not specifically provided in this section, shall pay the license tax rate of 0.36 percent of the gross receipts therefrom.

(f) A license for the operation of any permanent park for public amusement in the city open to the public shall not be construed to authorize the operation within such park of any hotel, dance hall, motion picture theatre, theatre, restaurant or store or the sale of beer, wine or tobacco or the conduct of any other business or occupation for which a specific license is required by this chapter.

(g) No license tax provided in this section shall be prorated.

(h) The commissioner of revenue may require an applicant for a license under this section to file with him a certificate in writing, sworn to before an officer authorized to administer oaths, that the operation of the amusement or activity proposed to be so licensed does not include any element of gambling. [3]

(i) No license issued under this section shall be construed to authorize the licensee to operate any amusement or other activity the operation of which is prohibited by law.

(Code 1965, §§ 20-91—20-95; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Footnotes:
*--- (**3**) ---*
***Cross reference—** Gambling, Ch. 14.*

Sec. 18-54. - Athletic fields or parks for professional sports.

(a) The license tax rate for every person operating an athletic field or park for professional baseball games, football games and other professional games of similar character, where a charge is made for admission, shall be 0.36 percent of the gross receipts, exclusive of any federal and city admission tax thereon, from admissions to such athletic field or park.

(b) The payment of the license tax imposed by this section shall not be construed to authorize, within such athletic field or park, the sale of beer, wine, tobacco or other articles or the conduct of any business, vocation or calling for which a specific license is required by this chapter.

(Code 1965, § 20-80; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-55. - Automotive services and garage businesses.

(a) The license tax rate for every person engaged in any automotive service and garage business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Automotive services and garage businesses as referred to in this section shall include those businesses set out below and any miscellaneous automotive services and garage businesses not elsewhere classified:

(1) Automobile rentals, without drivers.

(2) Truck rental and leasing, without drivers.

(3) Utility and house trailer rental.

(4) Automobile parking.

(5) Automobile repair shops.

(6) Tire retreading and repair shops.

(7) Paint shops.

(8) Automobile laundries.

(Code 1965, § 20-59.1; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-55.1. - Insurance prerequisite for tow truck services.

Every tow truck service, as defined in section 21-419, shall submit a certificate of insurance as proof of insurance coverage, (a) upon application for a business license or, (b) upon renewal of its current business license or within sixty (60) days of the date of the adoption of this section, whichever occurs first, as a condition precedent to being issued a new business license, or to having its current business license renewed or to being permitted to continue operating beyond sixty (60) days from the date of the adoption of this section. The required insurance coverage shall be of types and amounts indicated below and shall be approved by the city manager or his duly authorized agent:

(1) Garage liability insurance/auto liability insurance: $500,000.00 combined single limits.

(2) Cargo insurance: Tow vehicles up to seventeen thousand five hundred (17,500) pounds vehicle weight—Minimum of $50,000.00. Tow vehicles over seventeen thousand five hundred (17,500) pounds vehicle weight—Minimum of $300,000.00.

(3) Garagekeeper's legal liability insurance: Minimum of $50,000.00.

Such insurance shall be in full force and effect at all times, and the city manager shall be given at least thirty (30) days' notice of any cancellation or material modification of coverage. Failure of a tow truck service to carry the required insurance shall result in revocation of its business license in addition to other penalties which may be prescribed by this Code.

(Ord. No. 1458, 6-18-84; Ord. No. 1731, 9-14-87)

State Law reference— Authority to require insurance of a licensee, Code of Virginia, § 15.1-906.

Sec. 18-56. - Barbershops, beauty parlors, barber and beauty culture schools, tanning salons, and nail salons.

(a) For the purposes of this section, the following words and phrases shall be construed as follows:

(1) *Barbering or hairdressing:* Any one or any combination of the following acts, when done on the human body for pay or reward and not for the treatment of disease: Shaving, shaping and trimming the beard; cutting, curling, singeing, shampooing or dyeing the hair or applying lotions thereto; or applications, treatments or massages of the face, neck or scalp with oil, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard.

(2) *Barbershops; beauty parlors:* Any establishment or place of business within which the practice of barbering or hairdressing is engaged in or carried on by one or more barbers.

(3) *Tanning salon:* Any establishment or place of business providing persons access to equipment used for the tanning of human skin, including sunlamps, tanning booths, or tanning beds. This definition shall not include any physician who employs tanning equipment in his or her practice.

(4) *Nail salon:* Any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation.

(b) The license tax rate for every person who shall conduct or operate a barbershop shall be 0.36 percent on gross receipts in such business during the preceding calendar year.

(c) The license tax rate for every person who shall conduct or operate a beauty parlor, hairdressing establishment, tanning salon or nail salon shall be 0.36 percent of gross receipts in such business during the preceding calendar year. A license issued under this chapter pursuant to the payment of the license tax set out in this subsection shall not authorize the teaching or instruction of beauty culture or cosmetology.

(d) The license tax rate for every person who shall conduct or operate a barber school or beauty culture school shall be 0.36 percent of the gross receipts in such business during the preceding calendar year. The rendering by students in such school, in the course of their training, of services usually performed in barbershops and beauty parlors shall not require the payment of an additional license tax required by this section.

(e) No license for a barbershop, beauty parlor, hairdressing establishment, tanning salon or nail salon shall be issued or renewed under this chapter unless and until there is presented to the commissioner of the revenue a current permit from the director of public health for the operation of such business. The permit required by this section shall be issued on an annual basis upon payment of a fee in the amount of thirty dollars ($30.00) to the director of public health. For purposes of this permit requirement, hairdressing, tanning and nail care are separate activities, and each activity shall require a permit by the director of public health. The director of public health may suspend or revoke such permit upon the failure of the establishment or salon to comply with the Guidelines and Permitting Procedures adopted by the public health department. If the director of public health refuses to issue such permit, suspends or revokes such permit, he shall notify the applicant, in writing, of his reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(f) Where merchandise is sold at a barbershop, beauty parlor, hairdressing establishment, barber school or beauty culture school licensed under this section, a merchant's license shall be required in addition to the barbershop, beauty parlor, hairdressing establishment, barber school or beauty culture school license;

provided, however, that the licensee in question may make sales of merchandise used in the operation of such barbershop, beauty parlor, hairdressing establishment, barber school or beauty culture school not to exceed $250.00 in any calendar year without paying such additional merchant's license tax.

(Code 1965, §§ 20-104—20-111; Ord. No. 1091, 9-22-80; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2388, 5-14-96; Ord. No. 2390, 5-14-96; Ord. No. 3155, 12-14-10; Ord. No. 3164, 4-12-11)

Cross reference— Maintenance, etc., of establishments licensed under above section, § 23-57.

Sec. 18-57. - Reserved.

Sec. 18-58. - Barging and lightering.

The license tax rate for every person engaged in the city in the business of barging and lightering, or who shall hire out barges, lighters or vessels to do this work, or have an office in the city where such contracts are made, shall be 0.36 percent of the gross receipts in such business conducted in the city during the preceding calendar year.

(Code 1965, 20-32; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-59. - Beach equipment rental—Generally.

(a) The license tax rate for each person engaged in the business of renting beach equipment in the city shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) For the purpose of this section, the term "beach equipment" shall mean dugouts, umbrellas, chairs, windbreakers, air floats and life rafts.

(Code 1965, § 20-33; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-60. - Same—Surfboards.

(a) The license tax rate for each person engaged in the business of renting surfboards in the city shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) All surfboards offered for rent shall be marked with a permanent identification indicating that they are for rent.

(c) No license shall be issued for the rental of surfboards until the applicant therefor shall have presented a certificate, approved by the city attorney as to form and surety, of personal injury liability insurance coverage in the amount of $100,000.00 per person and $300,000.00 per accident and property damage liability insurance in the amount of $5,000.00.

(Code 1965, § 20-33.1; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-61. - Reserved.

Sec. 18-62. - Billiard, pool or bagatelle tables or shuffleboards.

(a) The license tax rate for every person engaged in the business of operating a pool room in which are located billiard, pool or bagatelle tables or shuffleboards shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) No license shall be issued under this chapter for the operation of a poolroom within the city unless a permit shall have been obtained from the chief of police. If the chief of police refuses to issue such permit, he shall notify the applicant, in writing, of his reasons therefor and the applicant may appeal such refusal to the city council within thirty days from the date of such notice.

(Code 1965, §§ 20-81, 20-82; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-63. - Billposters.

(a) The license tax rate for every person engaged in business as a billposter shall be 0.36 percent of the gross receipts in such business.

(b) The term "billposter," as used in this section, shall mean any person who shall, for compensation, post bills, distribute circulars and handbills or tack or nail signs in public places.

(Code 1965, § 20-34; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-64. - Boardinghouses, lodging houses and tourist homes.

The license tax rate for every person engaged in keeping a boardinghouse, lodging house, bed and breakfast, campground or tourist home, where the total number of rooms available for boarders or lodgers is five (5) or less shall be 0.36 percent of the gross receipts. Where the total number of rooms available for boarders or lodgers is over five (5), such person shall pay the license tax required of hotels and other like establishments under section 18-85.

(Code 1965, § 20-130; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 3152, § 1, 9-14-10)

Cross reference— Hotels and similar establishments, Ch. 15.

Sec. 18-64.1. - Body piercing establishments.

(a) The license tax rate for every person engaged in the business of operating a body piercing establishment shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) For the purposes of this section, "body piercing" and "body piercing establishment" shall have the definitions provided by section 23-53.1 of this Code.

(c) No license for a body piercing establishment shall be issued or renewed under this chapter unless or until there is presented to the commissioner of the revenue a current permit from the department of public health for the operation of such business. The failure of any person to obtain or maintain this permit shall constitute grounds for suspension of the license in the manner provided by section 18-5.1 of this chapter.

(d) This section shall not apply to body piercing performed by medical doctors, registered nurses or other medical service personnel licensed pursuant to Title 54.1 of the Code of Virginia as part of their professional duties; provided, however, that gross receipts from body piercing activities performed by doctors, nurses or

other medical service personnel as part of their professional duties remain taxable under this chapter in the same manner as other services provided by such persons.

(Ord. No. 2628, 4-24-01)

Sec. 18-65. - Property Bail Bondsmen.

(a) The license tax rate for every Property Bail Bondsman who shall, for compensation, enter into any bond or bonds for others, whether as principal or surety, shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) The term "Property Bail Bondsman," as used in this section, shall mean a person licensed pursuant to sections 9.1-185 to 9.1-186.14 of the Code of Virginia who, for compensation, enters into a bond or bonds for others, whether as a principal or surety, or otherwise pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond as defined in section 19.2-119 of the Code of Virginia that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

(c) Any person who shall, for compensation, enter into any bond for others, whether as principal or surety, without having obtained a license shall be guilty of a class three misdemeanor.

(d) No license, the tax for which is set out in this section shall be issued unless there is presented to the commissioner of revenue a Property Bail Bondsman license from the Department of Criminal Justice Services.

(e) A license, the tax for which is set out in this section, may be revoked at any time for failure to comply with any of the terms or conditions set out in this section.

(f) No business license shall be required for any surety bail bondsman licensed under sections 9.1-185 to 9.1-186.14 of the Code of Virginia who is also licensed by the State Corporation Commission as a property and casualty insurance agent, and who sells, solicits, or negotiates surety insurance as defined in section 38.2-121 of the Code of Virginia on behalf of insurers licensed in the Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in section 19.2-119 of the Code of Virginia, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail. Any bondsman claiming exemption under this subsection must file a copy of his State Corporation Commission license with the Commissioner of the Revenue.

(Code 1965, §§ 20-195—20-199, 20-201; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 2945, 6-6-06)

State Law reference— Authority for above tax and similar provisions, Code of Virginia, § 58.1-3724.

Sec. 18-66. - Reserved.

Editor's note— Ord. No. 2462, adopted Nov. 18, 1997, repealed § 18-66, which pertained to card-writing stands, and which derived from Code 1965, § 20-36; Ord. No. 1516, adopted Feb. 4, 1985; and Ord. No. 2390, adopted May 14, 1996.

Sec. 18-67. - Carnival, street fairs and tent shows—Generally.

(a) For every carnival, street fair or tent show, except those provided for in section 18-69, there shall be paid the following license tax for each day or part thereof: $300.00 and, in addition thereto, one percent of the gross receipts, exclusive of any federal and city admissions tax thereon, received from all admissions to such carnival, street fair or tent show and all side shows and amusements operated in connection therewith; provided, however, that any such carnival, street fair or tent show that has wintered for at least four months during the previous winter in the city, which, before starting out on the road on its itinerary, desires to give a number of performances for practice purposes, shall pay the following license tax for each day or part thereof for a period not exceeding fifteen (15) days: $90.00 and, in addition thereto, one percent of the gross receipts, exclusive of any federal and city admission tax thereon, received from all admissions to such carnival, street fair or tent show and all side shows and amusements operated in connection therewith, and any such carnival, street fair or tent show exhibiting beyond such period of fifteen days shall, after that time, pay the license tax above prescribed in this section for carnivals, street fairs and tent shows generally.

(b) For each parade of a carnival, street fair or tent show subject to the license tax imposed in subsection (a) of this section, an additional license tax of $150.00 shall be paid.

(c) In those cases where the carnival, street fair or tent show is sponsored by a business association for promotional purposes, or by a charitable, nonprofit or eleemosynary organization in connection with a fund-raising activity of such organization, and when approved by the city manager, the license tax shall be $200.00 for two (2) weeks or any portion thereof; provided, that such reduced tax shall apply only to a single location and the reduced tax shall not reduce or eliminate that portion of the license tax which is measured by gross receipts.

(d) No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which a carnival, street fair or tent show licensed under this section is exhibited.

(e) No license shall be issued under this section unless there is presented to the commissioner of revenue a permit from the city manager for the operation of the carnival, street fair or tent show in question. If the city manager refuses to issue such permit, he shall notify the applicant, in writing, of his reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Code 1965, §§ 20-96, 20-97, 20-99)

State Law reference— Authority of city to impose license tax on carnivals, Code of Virginia, § 58.1-3728.

Sec. 18-68. - Same—Payment of tax; deposit; issuance of license; certificate of gross receipts.

(a) Before any license shall be issued under section 18-67, the applicant therefor shall pay so much of the license tax as is not measured by gross receipts and shall deposit with the treasurer the sum of five hundred dollars ($500.00) in cash to be held as security for the payment of so much of such license tax as is based on gross receipts.

(b) The license tax imposed by section 18-67 shall be paid and the license issued daily for each day's operation of the carnival, street fair or tent show in question.

(c)

On the day following the expiration of any such daily license, the licensee shall file with the commissioner of revenue a certificate in writing, in form prescribed by the commissioner of revenue and sworn to before an officer authorized to administer oaths, showing his gross receipts for the previous day. The commissioner of revenue shall then compute that part of the license tax in question that is based on gross receipts and assess the same accordingly. Upon the making of such assessment, the licensee shall forthwith pay the amount thereof and he shall not be entitled to operate such carnival, street fair or tent show further until such sum is paid. Further operation of such carnival, street fair or tent show while such sum is unpaid shall constitute an operation thereof without a license and the person operating the same shall, upon conviction thereof, be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) and each day's operation shall constitute a separate offense.

(d) Should the licensee in question fail to file the certificate of gross receipts for the last day of operation in the city, and fail to pay the part of the license tax for such day which is based on gross receipts, within five (5) days from the termination of the operation of the carnival, street fair or tent show in question in the city, the commissioner of revenue shall thereupon assess so much of such license tax as is based on gross receipts, for such day, at the amount of the deposit made under this section and the city shall retain such deposit in full payment of the license tax due under section 18-67 for such day's operations.

(e) Upon the termination of the operation of the carnival, street fair or tent show in question in this city and the payment of all license taxes due under section 18-67, the city treasurer shall refund the deposit made under this section to the licensee or to the person who made the deposit.

(Code 1965, § 20-98)

Sec. 18-69. - Circuses and menageries—Generally.

(a) For each circus and menagerie, for each day or part thereof, the following license tax shall be paid: A sum which equals or amounts to five dollars ($5.00) for each railroad car and two dollars and fifty cents ($2.50) for each vehicle, other than a railroad car, used in transporting such circus or menagerie to the city; provided, however, that such sum shall not be less than one hundred fifty ($150.00) in any case; and, in addition thereto, one (1) percent of the gross receipts, exclusive of any federal and city admissions tax thereon, received from all admissions.

(b) For each side show in connection with a circus or menagerie, for each day or part thereof, there shall be paid the following license tax: Ninety dollars ($90.00) and, in addition thereto, one (1) percent of the gross receipts, exclusive of any federal and city admissions tax thereon, from all admissions.

(c) For each parade of a circus or menagerie, an additional license tax of $150.00 shall be paid.

(d) No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which a circus or menagerie licensed under this section is exhibited.

(e) No license shall be issued under this section unless there is presented to the commissioner of revenue a permit from the city manager for the operation of the circus, menagerie and side show in question. If the city manager refuses to issue such permit, he shall notify the applicant, in writing, of his reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Code 1965, §§ 20-100, 20-102, 20-103)

State Law reference— Authority of city to impose license tax on circuses, Code of Virginia, § 58.1-3728.

Sec. 18-70. - Same—Payment of tax; deposit; issuance of license; certificate of gross receipts.

(a) Before any license shall be issued under section 18-69, the applicant therefor shall pay so much of the license tax as is not measured by gross receipts and shall deposit with the city treasurer the sum of one thousand dollars ($1,000.00) in cash to be held as security for the payment of so much of such license tax as is based on gross receipts.

(b) The license tax imposed by section 18-69 shall be paid and the license issued daily for each day's operation of the circus, menagerie and side show in question.

(c) On the day following the expiration of any such daily license, the licensee shall file with the commissioner of revenue a certificate in writing, in form prescribed by the commissioner of revenue and sworn to before an officer authorized to administer oaths, showing his gross receipts for the previous day. The commissioner of revenue shall then compute that part of the license tax in question that is based on gross receipts and assess the same accordingly. Upon the making of such assessment, the licensee shall forthwith pay the amount thereof and he shall not be entitled to operate such circus, menagerie and side show further until such sum is paid. Further operation of such circus, menagerie and side show while such sum is unpaid shall constitute an operation thereof without a license and the person operating the same shall, upon conviction thereof, be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) and each day's operation shall constitute a separate offense.

(d) Should the licensee in question fail to file the certificate of gross receipts for the last day of operation in this city, and fail to pay the part of the license tax for such day which is based on gross receipts, within five (5) days from the termination of the operation of the circus, menagerie and side show in question in the city, the commissioner of revenue shall thereupon assess so much of such license tax as is based on gross receipts, for such day, at the amount of the deposit made under this section and the city shall retain such deposit in full payment of the license tax due under section 18-69 for such day's operations.

(e) Upon the termination of the operation of the circus or menagerie in question in this city and the payment of all license taxes due under section 18-69, the city treasurer shall refund the deposit made under this section to the licensee or to the person who made the deposit.

(Code 1965, § 20-102)

Sec. 18-71. - City directories.

The license tax rate for every person engaged in the city in the business of publishing or distributing a directory, commonly known as a "city directory", having an office or representative, or making a contract for work or soliciting for work, in the city, shall be 0.36 percent of the gross receipts attributable to the business conducted within the city during the preceding calendar year. In addition, a fee of twenty dollars ($20.00) will be collected from each agent granted a permit to solicit.

(Code 1965, § 20-37; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-72. - Coin-operated amusement machines—Operators.

(a) For the purpose of this section, the term "amusement operator" shall mean any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the city, whether or not such operator has a fixed place of business within the city; provided, however, that the term "operator" shall not include a person owning less than three (3) coin machines and operating such machines on property owned or leased by such person.

(b) (1) Amusement operators with ten (10) or more machines shall pay an annual license tax of two hundred dollars ($200.00), in addition to a license tax of 0.36 percent on the share of gross receipts actually received by the operator from such business for the preceding calendar year.

(2) Amusement operators with at least three (3) but less than ten (10) machines shall pay an annual license tax of one hundred fifty dollars ($150.00), in addition to a license tax of 0.36 percent on the share of gross receipts actually received by the operator from such business for the preceding calendar year.

(c) The operator's license tax shall not be applicable to operators of weighing machines, automatic baggage or parcel checking machines or receptacles, nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only, nor to operators of viewing machines or photomat machines, nor to operators of devices or machines affording rides to children or for the delivery of newspapers.

(d) Upon making application for a license as an operator, the applicant shall file with the commissioner of the revenue, in duplicate, a list of the locations of all machines and devices sold, leased, rented or otherwise furnished to or placed with others and, during the current license year, every operator shall notify the commissioner of the revenue, in writing in duplicate, of all changes in locations of such machines and devices, within five (5) days after such changes are made.

(e) Every operator, before commencing doing business in the city, shall register with the commissioner of the revenue and deposit with him a bond in the amount of one thousand dollars ($1,000.00), payable to the city, to insure the keeping of adequate records, the filing of reports in such form and at such times as may be prescribed by the commissioner of the revenue and the proper payment to the city of the tax imposed by this section. The form and surety of such bond shall be determined by the commissioner of the revenue.

(f) Every coin machine covered by this section shall be plainly marked by the owner thereof with the name and address of such owner.

(g) Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) for each offense and the machine or other device shall become forfeited to the city.

(Code 1965, §§ 20-113—20-115, 20-117, 20-188; Ord. No. 1084, 8-25-80; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 2724, 10-29-02)

Cross reference— Fraudulent use of coin-operated devices, § 23-35.

State Law reference— Authority of city to levy license tax on operator of coin-operated machines or devices, Code of Virginia, § 58.1-3720. See also, § 58.1-3721.

Sec. 18-73. - Vending machines.

(a) Every person engaged in the business of selling goods, wares and merchandise through the use of coin-operated vending machines shall be classified as a retail merchant on that phase or part of the business done through such machines and the license tax rate shall be 0.20 percent of the gross receipts for the privilege of doing business in this city; provided, however, that if any such person has more than one (1) definite place in this city at which goods, wares or merchandise are stored, kept or assembled for supplying such vending machines, each such place in excess of one (1) shall be regarded as an additional definite place of business.

(b) The term "vending machine," as used in this section, includes only such machines as vend goods, wares and merchandise and gives to the customer on every purchase his money's worth in goods, wares or merchandise. The term does not include any machine the operation of which is prohibited by law, nor any machine which has any gambling or amusement feature whatsoever.

(c) The term "engaged in the business of selling goods, wares and merchandise through the use of coin-operated vending machines," as used in this section, shall be construed as including the use of such machines by a soft drink manufacturer or bottler and a manufacturer or packager of nuts, candy and sandwiches, who leases, rents or otherwise furnishes vending machines to his customers for their use in selling at retail soft drinks or packaged nuts, candy or sandwiches, as well as a soft drink manufacturer or bottler or a manufacturer or packager of nuts, candy and sandwiches, who himself sells his products at retail through the use of such machines. Every such soft drink manufacturer or bottler and manufacturer or packager of nuts, candy and sandwiches shall report, at retail selling prices, all sales made through such vending machines and shall pay the tax thereon under this section accordingly. A soft drink manufacturer or bottler and a manufacturer or packager of nuts, candy and sandwiches licensed under this section shall be deemed to have qualified as to all vending machines placed and in any way serviced by him, whether the sales at retail through the use of such machines are made by the manufacturer, packager or bottler himself or by his customers.

(d) The use of a cigarette-vending machine on premises which are not already covered by a tobacco retailer's license shall require the owner of such cigarette vending machine to take out a tobacco retailer's license for that location.

(e) Every vending machine shall be plainly marked by the owner thereof with the name and address of such owner.

(f) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding twelve (12) months, or both, in the discretion of the jury or of the court trying the case without a jury.

(Code 1965, §§ 20-119, 20-120, 20-122, 20-123, 20-125; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-74. - Commercial service businesses.

(a) The license tax rate for every person engaged in any commercial service business shall be 0.36 percent of the

gross receipts in such business during the preceding calendar year.

(b) Commercial service businesses referred to in this section shall include those businesses set out below and any miscellaneous commercial service business not elsewhere classified:

(1) Advertising.

(2) Consumer credit reporting agencies, mercantile.

(3) Reporting agencies and adjustment agencies.

(4) Collection agencies.

(5) Duplicating, addressing, blueprinting.

(6) Photocopying, mailing, mailing list and stenographic services.

(7) Building cleaning, disinfecting, exterminating services.

(8) Private employment agencies.

(9) Commercial research and development laboratories.

(10) Business, management, administrative and consulting services.

(11) Protective services.

(12) Equipment rental and leasing services.

(13) Photofinishing laboratories.

(14) Commercial testing laboratories.

(15) Temporary help supply services.

(16) Commission merchants.

(Code 1965, § 20-39; Ord. No. 1516, 2-4-85; Ord. No. 1950, 3-5-90; Ord. No. 2390, 5-14-96)

Sec. 18-75. - Contractors.

(a) Subject to the provisions of section 58.1-3715 of the Code of Virginia, the license tax rate for every person engaged in any contracting service business shall be 0.16 percent of the gross receipts in such business during the preceding calendar year. Contract service businesses referred to in this subsection shall include those businesses set out below and any miscellaneous contract service business not elsewhere classified:

(1) General building contractors.

(2) Highway and street construction.

(3) Heavy construction.

(4) Special trade contractors:

a. Plumbing, heating and air-conditioning.

b. Painting, paper hanging and decorating.

c. Electrical.

d. Masonry, stone setting and other.

e. Stonework.

f. Plastering and lathing.

g. Terrazzo, tile, marble and mosaic work.

h. Carpentering.

i. Floor laying and other floorwork.

j. Roofing and sheet metal work.

k. Concrete work.

l. Structural steel erection.

m. Ornamental metal work.

n. Glass and glazing work.

o. Excavating and foundation work.

p. Wrecking and demolition work.

q. Removing contents of privies, cesspools, septic tanks and other similar facilities.

(b) Persons who subdivide and improve real estate, and speculative builders who build houses or other buildings with the intention of offering the subdivided lots or completed buildings for sale, shall be considered contractors and pay the license tax as provided in subsection (a) of this section on the gross receipts from the sale of the real estate or building(s); provided, however, if such person maintains ownership of such structure and rents or leases rooms or space in such structure, then the license tax rate for such person shall be 0.16 percent of the actual cost of construction. No license for the conduct of such business shall be transferred.

(c) A person shall not be deemed to be engaged in the business of contracting solely because he acts as his own prime contractor to build or improve a building which he intends to occupy as his residence, office or other place of business, or actually so occupied within a reasonable time prior to the sale of the premises.

(d) Every person licensed under this section shall, within thirty (30) days from the issuance of a building permit, furnish the commissioner of revenue, on forms provided by him, the amount of each subcontract, along with the names and addresses of all subcontractors to be employed in the construction of the work encompassed by such permit. Failure to comply with the provisions of this subsection shall constitute a basis for the revocation of the building permit and suspension of all work under such permit.

(Code 1965, §§ 17-33, 20-42—20-43.1; Ord. No. 1239, 11-6-81; Ord. No. 1357, 3-7-83; Ord. No. 1365, 4-4-83; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 2925, 2-28-06)

Cross reference— Building regulations, Ch. 8; contractors' registration and bond, § 8-6; sanitation disposal contractors, § 28-58 et seq.

Sec. 18-76. - Dance halls and teenage events.

(a) Every person operating a dance hall or teenage event shall pay an annual license tax of two hundred dollars ($200.00). A manager of a dance hall or teenage event shall also collect and remit all required taxes, including but not limited to, admissions taxes as required by section 35-182 of this Code.

(b) For the purposes of this section, the terms " dance hall" and "teenage event" are defined as provided in section 4-16 of this Code.

(c) No license shall be issued under this chapter for the operation of a dance or teenage event hall unless a permit, as required by article II of chapter 4 of this Code, has been granted.

(d) Upon conviction of a violation of article II of chapter 4 of this Code by any person holding a license for the operation of a dance hall or teenage event, such license may be revoked.

(Code 1965, §§ 20-84—20-86; Ord. No. 3139, 6-22-10)

Cross reference— Public dance halls generally, § 4-16 et seq.; operating permit, § 4-32 et seq.

State Law reference— Authority for above tax, Code of Virginia, § 18.2-433.

Sec. 18-76.1. - Dealers in precious metals and gems.

(a) *Definitions.* For the purposes of this section, the following definitions shall apply:

(1) "Coin" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

(2) "Dealer" means any person, firm, partnership or corporation engaged in the business of purchasing, acquiring or selling secondhand precious metals or gems, or precious metals or gems removed in any manner from manufactured articles not then owned by such person, firm, partnership or corporation. "Dealer" includes all employers and principals on whose behalf a purchase is made and any employee or agent who makes any purchase for or on behalf of an employer or principal.

This definition shall not be construed so as to include persons engaged in the following:

a. Purchases of precious metals or gems directly from other dealers, manufacturers, or wholesalers for retail or wholesale inventories.

b. Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.

c. Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.

d. Preparing, restoring or designing jewelry by retail merchant, if such activities are within the normal course of business.

e. Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants or wholesalers.

f. Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a by-product.

(3) "Gems" means any items containing precious or semiprecious stones customarily used in jewelry.

(4) "Precious metals" means any item except coins composed in whole or in part of gold, silver, platinum or platinum alloys.

(b) *Tax levied on receipts.* The license tax rate for every dealer engaged in business in the city of purchasing, acquiring or selling secondhand precious metals or gems shall be 0.36 percent of gross receipts received in the resale of such precious metals or gems made during the preceding calendar year.

(c) Dealers shall obtain a permit from the chief of police prior to obtaining a license under this chapter in accordance with section 18-32.

(Ord. No. 1113, 11-3-80; Ord. No. 1355, 2-7-83; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-76.2. - Reserved.

Editor's note— Ord. No. 2363, adopted Jan. 9, 1996, repealed the provisions of former § 18-76.2, which pertained to permit and other related requirements for dealers in precious metals and gems, and was derived from Ord. No. 1911, adopted Sept. 11, 1989.

Sec. 18-77. - Detectives, detective agencies, watchmen services, security patrols and similar security services.

(a) The license tax rate for every person operating a detective agency or engaged in the business of a detective shall be 0.36 percent of the gross receipts in such business during the preceding calendar year. Any person or agency obtaining a license under this subsection may conduct the business of furnishing watchmen for compensation without securing an additional license under subsection (b) of this section for so doing.

(b) The license tax rate for every person or agency furnishing watchmen, security patrols or similar security services for compensation shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(c) As a prerequisite to obtaining the license required by this section, every person operating a detective agency, watchmen service, security patrol or similar security service or engaged in the business of a detective or watchman must have (1) an approved private security services business license from the Virginia Department of Criminal Justice Services or its successor agency as required under Virginia Code sections 9-183.1 through 9-183.12; and, (2) the written approval of the chief of police of the city as to the badges, insignia and uniforms that will be used by such detective, detective agency, security patrol, security service, watchmen or watchmen service, and as to the insignias, lettering or decals to be used on private security patrol vehicles.

(Code 1965, §§ 20-126, 20-127; Ord. No. 1211, 8-17-81; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

State Law reference— Private security services, Code of Virginia, § 54-729.27 et seq.

Sec. 18-78. - Distributing houses.

For every distributing house or place in the city (other than the house or place of manufacture) operated by any person engaged in the business of a merchant in this city for the purpose of distributing goods, wares and merchandise among his retail stores, a separate merchant's license shall be required, which shall be the same license required by this chapter of a wholesale merchant. The goods, wares and merchandise distributed through such distributing house or place shall be regarded as purchases for the purpose of measuring the license tax.

(Code 1965, § 20-148)

Sec. 18-79. - Reserved.

Editor's note— Ord. No. 2363, adopted Jan. 9, 1996, deleted § 18-79, which section pertained to dry cleaning, dyeing, towel and linen rental services, etc., and was derived from Code 1965, §§ 20-44, 20-45; and from Ord. No. 1516, adopted Feb. 4, 1985.

Sec. 18-80. - Educational service businesses.

(a) The license tax rate for every person engaged in any educational service business shall be 0.36 percent of the gross receipts in such businesses during the preceding calendar year.

(b) Educational service businesses referred to in this section shall include those businesses set out below and any miscellaneous educational service business not elsewhere classified:

(1) Private academies.

(2) Boarding schools.

(3) Day nurseries.

(4) Finishing schools.

(5) Kindergartens.

(6) Nursery schools.

(7) Correspondence schools.

(8) Aviation schools.

(9) Business colleges and schools (not of college grade).

(10) Commercial art schools.

(11) Data processing schools.

(Code 1965, § 20-54; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-81. - Electrical service.

Any person or company engaged in the business of furnishing electric light, power or service shall pay one-half of one percent of the gross receipts of such person or company accruing from such business, other than mercantile, in the city for the calendar year ending with the thirty-first day of December immediately next preceding and shall also pay, on the mercantile business, the same license tax as required of merchants under section 18-89. Each person or company applying for such a license shall submit to the commissioner of revenue a statement of such receipts, which statement shall be verified by the commissioner of revenue by examination of the books of such person or company.

(Code 1965, § 20-46)

Cross reference— Tax on purchasers of utility services, § 35-114 et seq.

Sec. 18-82. - Emigrant labor agents.

(a) The license tax rate for every person engaged in the business of soliciting, hiring or contracting with laborers to be employed by persons other than himself beyond the limits of the state, and every agent of such person, shall be 0.36 percent of the gross receipts in such business during the preceding calendar year. Such

license shall not be transferred.

(b) No license, the tax for which is prescribed by this section, shall be issued unless the applicant submits to the commissioner of revenue a certificate from the circuit court to the effect that, to the personal knowledge of the judge of such court or from the information of credible witnesses under oath before such court, the court is satisfied that such applicant is a person of good character and honest demeanor.

(c) This subsection shall not apply to state contractors temporarily engaged on contracts in other states when they themselves are employing labor for their own work nor shall this section apply to representatives of labor organizations within the state when, because of need of employment, they may direct their members to employment in other states.

(Code 1965, §§ 20-70—20-73; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-83. - Gas service.

Any person or company engaged in the business of furnishing or supplying gas for illuminating or fuel purposes shall pay one-half of one percent of the gross receipts of such person or company accruing from business, other than mercantile, in the city for the calendar year ending with the thirty-first day of December immediately next preceding and shall also pay, on the mercantile business, the same license tax as required of merchants under section 18-89. There shall be excluded from the gross receipts of such person or company such receipts as are derived from gas sold for resale. Each person or company applying for such a license shall submit to the commissioner of revenue a statement of such receipts, which statement shall be verified by the commissioner of revenue by examination of the books of such person or company.

(Code 1965, § 20-47)

Cross reference— Tax on purchasers of utility services, § 35-114 et seq.

Sec. 18-84. - Grain dealers.

Every person doing business in the city as a wholesale grain buyer, buying and selling commercial grain, except wheat grain, at wholesale, in or for his own name, whose purchases exceed 100,000 bushels during such year, and whose gross receipts are in excess of $100,000.00, shall pay a license fee of $50.00 plus a license tax of $0.02 per 100 bushels purchased in excess of 100,000 bushels. If the grain buyer's gross receipts do not exceed $100,000, or the purchases do not exceed 100,000 bushels, only a license fee shall be required.

(Code 1965, § 20-48; Ord. No. 2436, 1-28-97)

Sec. 18-85. - Hotels, motels, motor lodges, etc.

The license tax rate for every person conducting the business of keeping a hotel, motel, motor lodge, auto court, campground, bed and breakfast or tourist camp shall be 0.36 percent of the gross receipts during the preceding calendar year, except receipts from telephone service and except rent from stores and offices.

(Code 1965, § 20-129; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 3152, § 1, 9-14-10)

Cross reference— Hotels and similar establishments generally, Ch. 15.

Sec. 18-86. - Junk dealers and canvassers; secondhand dealers.

(a) The license tax rate for every person engaged in business in the city as a junk dealer or secondhand dealer shall be 0.36 percent of the gross sales, whether paid for or not, in such business during the preceding calendar year.

(b) No license to engage in business as a junk dealer or secondhand dealer in the city shall be issued until the applicant therefor has obtained a permit from the chief of police in accordance with section 18-32. If the chief of police refuses to issue such permit, he or she shall notify the applicant, in writing, of the reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Code 1965, §§ 20-49, 20-50; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-87. - Marinas.

The license tax rate for every person engaged in the business of keeping or operating a marina shall be 0.36 percent of the gross receipts, including the gross receipts from repairs and from the berthing of boats, in such business during the preceding calendar year.

(Code 1965, § 20-52; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Cross reference— Beaches, boats and waterways, Ch. 6.

Sec. 18-88. - Medical and other health service businesses.

(a) The license tax rate for every person engaged in any medical or other health-service business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Medical and other health service businesses referred to in this section shall include those businesses set out below and any miscellaneous medical and other health service businesses not elsewhere classified:

(1) Medical or dental laboratories, provided such laboratories are not substantially engaged in manufacturing.

(2) Sanatoria and convalescent and rest homes.

(Code 1965, § 20-54.1; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2462, 11-18-97)

Sec. 18-89. - Merchants, retail.

(a) The license tax rate for every person engaged in the business of a retail merchant, as defined in section 18-2, shall be 0.20 percent of the gross sales, whether paid or not, in such business during the preceding calendar year.

(b) For the purposes of this section, the gross sales of a motor vehicle dealer may be computed after consideration of allowances for cash discounts given and used motor vehicles taken in trade. When used or secondhand vehicles are sold, the price received therefor shall be considered as sales.

(c) Where a merchant conducts both a retail and a wholesale business, separate license taxes shall be paid on the retail and wholesale parts of such business; provided, however, that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under a retailer's license by paying license taxes under this section as a retailer on both the retail business and his wholesale business.

(Code 1965, §§ 20-144, 20-144.1, 20-145; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-89.5. - Mail-order sales.

The license tax rate for every person engaged in the business of a mail-order warehouse distribution center (other than manufacturers), who advertises his products by use of circulars or catalogs which are mailed to his customers, and who receives orders in this city and who ships or mails all such orders from this city directly to his customers shall be as follows:

(1) 0.20 percent of the gross receipts during the preceding year up to $40,000,000.00, plus

(2) 0.10 percent of the gross receipts during the preceding year between $40,000,000.01 and $60,000,000.00, plus

(3) 0.05 percent of the gross receipts during the preceding year between $60,000,000.01 and $100,000,000.00, plus

(4) 0.025 percent of the gross receipts in excess of $100,000,000.00.

(Ord. No. 1709, 6-22-87; Ord. No. 2390, 5-14-96)

Sec. 18-90. - Merchants, wholesale.

(a) The license tax rate for every person engaged in the business of a wholesale merchant, as defined in section 18-2, shall be 0.12 percent of all gross purchases in such business during the preceding year.

(b) When a merchant conducts both a wholesale and a retail business, separate license taxes shall be paid on the wholesale and retail parts of such business; provided, however, that any wholesale merchant who desires to do a retail business also may elect to do so under a retailer's license by paying the license taxes as a retailer on both the retail business and the wholesale business.

(c) Any person who maintains no place of business in the city and who stores goods, wares and merchandise in a public warehouse or public warehouses in the city, for ultimate distribution to wholesalers only or to the federal or state government, or to any agency of either of such governments, shall not be classified as a wholesale merchant and shall not be subject to a license tax as such.

(Code 1965, §§ 20-30, 20-146, 20-147; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-91. - Money lenders generally; handling or dealing in installment paper.

(a) The license tax rate for every person, other than banks, bankers, pawnbrokers and those set forth in the following subsections of this section engaged in the business of purchasing salaries, lending money, or handling or dealing in installment paper, with or without security or endorsement, shall be 0.58 percent of the gross receipts in such business during the preceding calendar year.

(b) No license, the tax for which is set out in this section, shall be transferable.

(Code 1965, §§ 20-137—20-141; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

State Law reference— Small Loan Act, Code of Virginia, § 6.1-244 et seq.

Sec. 18-92. - Pawnshops.

(a) The license tax rate for every person engaged in business as a pawnshop shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) No license to engage in business as a pawnshop in the city shall be issued under this chapter unless the applicant therefor shall produce to the commissioner of the revenue the license required by the Code of Virginia § 54.1-4001, as amended.

(Code 1965, §§ 20-149—20-153; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96; Ord. No. 3649, 1-19-21)

Sec. 18-93. - Peddlers generally.

(a) Every person peddling goods, wares, merchandise or products of any description, except as in this chapter otherwise provided, shall pay a license tax of $500.00. All peddlers applying to be licensed under this section shall first obtain a permit from the city manager.

(b) A license, the tax for which is established in this section, shall not be transferable.

(Code 1965, §§ 20-193, 20-194; Ord. No. 1228, 10-5-81; Ord. No. 1446, 4-16-84)

Cross reference— Peddlers and solicitors, Ch. 26.

State Law reference— City license tax for peddlers, Code of Virginia, §§ 58.1-3718, 58.1-3719.

Sec. 18-94. - Peddlers of bottled drinks, hot dogs and wrapped sandwiches.

(a) Every person peddling bottled soft drinks, hot dogs and wrapped sandwiches from a cart, wagon, truck, automobile, basket or tray shall pay a license tax of $300.00. All peddlers licensed under this section shall first obtain a permit from the city manager. Such tax shall not be prorated and the license shall not be transferable.

(b) When articles referred to in subsection (a) above are peddled along with the articles specified in sections 18-95 and 18-96 and the license tax imposed by this section is paid, the person paying such tax shall not be required to pay, in addition thereto, the license taxes imposed by sections 18-95 and 18-96.

(c) No license shall be issued under this section, unless the applicant holds a permit from the director of public health. If the director of public health refuses to issue such permit, he shall notify the applicant, in writing, of his reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Code 1965, §§ 20-186—20-190; Ord. No. 1228, 10-5-81; Ord. No. 1447, 4-16-84)

Cross reference— Food and food establishments, Ch. 13; street vendors of food, § 13-36 et seq.

Sec. 18-95. - Peddlers of ice cream, candy, etc., from vehicles.

(a) Every person peddling ice cream and other ice confectioneries, candies and confections from vehicles on the streets of the city shall pay a license tax of $50.00. No such license tax shall be prorated and the license shall not be transferable.

(b) No person licensed under this section shall sell, or offer for sale, ice cream and other ice confectioneries, candies and confections, unless each operator covered by such license has obtained a permit from the chief of police. If the chief of police refuses to issue such permit, he/she shall notify the applicant, in writing, of the reasons therefor and the applicant may appeal such refusal to the city council within thirty (30) days from the date of such notice.

(Code 1965, §§ 20-164, 10-166; Ord. No. 1228, 10-5-81; Ord. No. 2363, 1-9-96)

Cross reference— Street vendors of food products, § 13-36 et seq.

Sec. 18-96. - Peddlers of market produce, coal, wood, ice, fresh meat, fruit, seafood or nuts—Generally.

(a) Except as otherwise provided in this article, every person peddling market produce, coal, wood, ice, fresh meats, fruits, seafoods or nuts, when sold from carts, drays, wagons, automobiles, trucks or pushcarts or other hand-propelled vehicles, shall pay a license tax of $50.00. No such license tax shall be prorated and the license shall not be transferable.

(b) The commissioner of revenue shall issue to each applicant for a license under this section a tag or sign, of a size and design to be selected by the commissioner of revenue, suitable to be displayed on the peddler's wagon, cart or truck.

(c) Any tag or sign issued under this section shall be affixed and displayed by the owner on the left-hand side of his cart, wagon, dray, automobile, truck, pushcart or other vehicle, on the outside thereof and in a conspicuous place, so that the same may be readily seen at all times by anyone authorized to inspect the same.

(d) A permit from the city sealer of weights and measures is required when any of the articles referred to in this section is sold by weight.

(Code 1965, §§ 20-171, 20-174, 20-178, 20-180, 20-182, 20-185; Ord. No. 1228, 10-5-81)

Cross reference— Farmer's market, Ch. 11; food generally, Ch. 13.

Sec. 18-97. - Same—Exemption for producers, growers, etc.

(a) No license shall be required under section 18-96 of peddlers of market produce, fresh meats or fruits who are bona fide producers or growers of the produce, meats or fruits sold by them. No such license shall be required of peddlers of seafoods who are bona fide catchers, producers or growers of the seafoods sold by them.

(b)

Any person desiring to avail himself of the exemption provided in this section, with reference to bona fide producers or growers of market producer, meats or fruits, shall file with the commissioner of revenue a certificate in which shall be given the name and post office address of the person desiring the exemption, the location of the land from which his fruits, vegetables or other perishables are to be produced, whether such person is the owner thereof or a renter, and in the latter case, the name of the landlord or owner and the time from which his lease is to run. Such certificate shall include a statement that the person desiring the exemption intends to use the sign issued to him under this section himself personally, or by agent, for the sale of his own produce only, and will not permit the same to be used by any third party or for the sale of any produce, except his own.

(c) Any person desiring to avail himself of the exemption provided in this section, with reference to bona fide catchers, producers or growers of seafoods, shall file with the commissioner of revenue a certificate in which shall be given the name and post office address of the person desiring the exemption, the location of the land or area from which his seafoods are to be caught, produced or grown, whether such person is the owner thereof or a renter, and in the latter case, the name of the landlord or owner and the time from which his lease, if any, is to run. Such certificate shall include a statement that the person desiring the exemption intends to use the sign issued to him under this section himself personally, or by agent, for the sale of his own seafoods only, and will not permit the same to be used by any third party or for the sale of any seafood, except his own.

(d) Upon receipt of a certificate filed pursuant to subsection (b) of this section, the commissioner of revenue shall furnish to each bona fide producer or grower of market produce, meats or fruits a sign, of a size and design to be selected by the commissioner of revenue, suitable to be displayed on his wagon or truck, on which shall be printed "Produce Grower No. _____, 19___—19___", with the license year inserted.

(e) Upon receipt of a certificate filed pursuant to subsection (c) of this section, the commissioner of revenue shall furnish to each bona fide catcher, producer or grower of fish, oysters, clams or other seafood a sign, of a size and design to be selected by the commissioner of revenue, suitable to be displayed on his wagon or truck, on which shall be printed "Seafood Producer No. _____, 19___—19___", with the license year inserted.

(f) Any tag or sign issued under this section shall be affixed and displayed by the owner on the left-hand side of his cart, wagon, dray, automobile, truck, pushcart or other vehicle, on the outside thereof and in a conspicuous place, so that the same may be readily seen at all times by anyone authorized to inspect the same.

(g) Any person making any false statement in a certificate filed under this section shall be guilty of a Class 4 misdemeanor.

(h) Any producer or grower of market produce, meats or fruits permitting the grower's sign issued to him under this section to be used in the sale of any market produce, meat or fruits, except market produce, meat or fruits grown or produced by him on the land described in the certificate filed under this section, shall be guilty of a Class 4 misdemeanor.

(i) Any catcher, producer or grower of fish, oysters, clams or other seafoods permitting the producer's sign issued to him under this section to be used in the sale of any seafoods, except seafoods caught, produced or grown by him on or in the land or area described in the certificate filed under this section, shall be guilty of a Class 4 misdemeanor.

(Code 1965, §§ 20-113, 20-175—20-177, 20-179, 20-181—20-183)

Sec. 18-98. - Peddlers selling to dealers or retailers.

(a) Every person, other than a distributor or vendor of motor vehicle fuels and petroleum, a farmer, a dealer in forestry products or a producer or manufacturer, who, as a peddler, shall peddle goods, wares or merchandise by selling and delivering the same at the same time, to licensed dealers or retailers, at other than a definite place of business operated by the seller, shall pay a license tax of $100.00 for each vehicle used in such business, which license tax shall not be prorated; provided, however, that such license tax shall not in any case be in excess of the rates imposed by this chapter on a wholesale merchant selling similar goods, wares or merchandise at a definite place of business.

(b) For the purposes of this section, the word "peddler" means any person, who, at other than a definite place of business operated by the seller, shall sell or offer to sell goods, wares or merchandise to licensed dealers or retailers and, at the time of such sale or exposure for sale, shall deliver, or offer to deliver, the goods, wares or merchandise to the buyer. Any delivery made on the day of sale shall be construed as equivalent to delivery at the time of sale.

(c) The word "farmer," as used in this section means any person chiefly engaged in producing agricultural products on whose farm the volume or character of the agricultural products is in keeping with the size of the farm, but does not mean any person engaged in producing agricultural products who actively engages, directly or indirectly, in buying or trading in agricultural products not grown or produced by him or who actively engages, directly or indirectly, in conducting a business that includes buying or selling agricultural products not grown or produced by him.

(d) The exemption accorded a farmer, a dealer in forestry products, a producer or a manufacturer under this section is restricted to such peddling of goods, wares or merchandise as is actually produced or grown or manufactured by the seller.

(e) Every person claiming exemption from the provisions of this section on the grounds that he is delivering goods, wares or merchandise previously sold to the customer shall, upon request of any police, tax or revenue officer, furnish evidence of his claim, other than his mere statement, which evidence may be an invoice or signed order. Failure to furnish such evidence shall be sufficient ground for charging the person operating the vehicle involved with a violation of this section and, in any prosecution for a violation of this section, such claim, if made, shall be corroborated by satisfactory evidence.

(f) Each vehicle used in his business by a licensee under this section shall have conspicuously displayed thereon the name of the person using the same, together with his post office address. The license in question shall be conspicuously displayed on each vehicle used in such business.

(g) No license, the tax for which is designated in this section, shall be transferable.

(Code 1965, §§ 20-155, 20-157—20-161)

Sec. 18-99. - Personal service businesses.

(a) The license tax rate for every person engaged in any personal service business as defined in section 18-2 shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Personal service businesses referred to in this section shall include, but not be limited to, those businesses set out below and any miscellaneous personal service business not elsewhere classified:

(1) Laundries, family and commercial.

(2) Linen supply.

(3) Diaper service.

(4) Coin-operated laundries and dry cleaning.

(5) Dry cleaning and dyeing.

(6) Rug cleaning and repairing.

(7) Industrial launderers.

(8) Photographic studios, including commercial.

(9) Photography.

(10) Shoe repair shops, shoe shine parlors and hat cleaning shops.

(11) Funeral service and crematories.

(12) Garment pressing, alteration and repair.

(c) For each vehicle or conveyance used by a person who has been licensed to solicit for laundry, cleaning, dyeing and pressing work, as set forth in this section, the commissioner of the revenue shall issue a tag or number plate, in form prescribed by the commissioner of the revenue, to evidence the payment of the license tax imposed by this section, which tag or number plate shall be attached to such vehicle or conveyance.

(Code 1965, §§ 20-45, 20-55; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-100. - Photographers, film developers, etc., with no permanent place of business in city.

The license tax rate for every person engaged in the business of taking pictures or photographs or developing, copying or enlarging the same, or both, but who has no permanent place of business in the city, shall be 0.36 percent of the gross receipts attributable to such business conducted in the city during the preceding calendar year.

(Code 1965, § 20-57; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-100.1. - Professional service businesses and professions.

The license tax rate for every person engaged in any professional service business or profession as defined in section 18-2 shall be 0.58 percent of the gross receipts in such business during the preceding calendar year.

(Code 1965, § 20-58; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-100.2 - Research and development services.

Every person, firm or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in section 31.205-18(a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences and (v) electronic and physical sciences shall be subject to a license tax rate of $0.03 per $100.00 of such federal funds received in payment of such contracts upon documentation provided by such person, firm or corporation to the commissioner of the revenue.

(Ord. No. 2363, 1-9-96)

Sec. 18-101. - Real estate and financial services businesses.

The license tax rate for every person engaged in any real estate or financial services businesses as defined in section 18-2 shall be 0.58 percent of the gross receipts in such business during the preceding calendar year.

(Code 1965, § 20-41; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-102. - Repair service businesses.

(a) The license tax rate for every person engaged in any repair service business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Repair-service businesses referred to in this section shall include those businesses set out below and any miscellaneous repair service business not elsewhere classified:

(1) Bicycle repair shop.

(2) Boiler repair shop.

(3) Coppersmith.

(4) Electrical appliance repair shop.

(5) Engine repair shop.

(6) Fountain pen repairing.

(7) Fountain repairing.

(8) Furniture repairing or cleaning.

(9) Harness and leather repairing.

(10) Household and office appliance or equipment repairing or cleaning.

(11) Lawn mower repairing.

(12) Reserved.

(13) Luggage repairing.

(14) Machine shop.

(15) Mattress renovating and repairing.

(16) Motor repairing and rewinding.

(17) Musical instrument repairing.

(18) Radio or television repair shop.

(19) Refrigerator repair shop.

(20) Rug cleaning.

(21) Scale repairing.

(22) Sewing machine repair shop.

(23) Tailor (repair work).

(24) Tank repair shop.

(25) Upholstering establishment.

(26) Watch and jewelry repairing.

(Code 1965, § 20-59; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2363, 1-9-96; Ord. No. 2390, 5-14-96)

Sec. 18-103. - Savings and loan associations.

Every savings and loan association having its principal office in the city shall pay a license tax of $50.00.

(Code 1965, § 20-142)

State Law reference— Limits for above tax, Code of Virginia, § 58.1-3730.

Sec. 18-104. - Shooting galleries and archery ranges.

The license tax rate for every person operating a shooting gallery or archery gallery or archery range shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(Code 1965, § 20-87; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Cross reference— Weapons, Ch. 38.

Sec. 18-104.1. - Short-term rental business.

Every person engaged in the short-term rental business as defined in section 35-252 of this Code shall be classified in the category of retail sales and shall pay a license tax rate equal to that imposed in section 18-89 on merchants, retail.

(Ord. No. 1861, 5-8-89; Ord. No. 2390, 5-14-96)

Sec. 18-104.2. - Tattoo parlors.

(a) The license tax rate for every person engaged in a tattoo parlor business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) For the purposes of this section, "tattoo" and "tattoo parlor" shall have the definitions provided by section 23-51 of this Code.

(c) No license for a tattoo parlor business shall be issued or renewed under this chapter unless or until there is presented to the commissioner of the revenue a current permit from the department of public health for the operation of such business. The failure of any person to obtain or maintain this permit shall constitute grounds for suspension of the license in the manner provided for by section 18-5.1 of this chapter.

(d) This section shall not apply to tattoos applied by medical doctors, veterinarians, registered nurses or other medical service personnel licensed pursuant to Title 54.1 of the Code of Virginia as part of their professional duties; provided, however, that gross receipts from tattoos applied by doctors, veterinarians, nurses or other medical personnel as part of their professional duties remain taxable under this chapter in the same manner as other services provided by such persons.

(Ord. No. 2628, 4-24-01)

Sec. 18-105. - Taxicabs and for-hire cars.

The license tax rate for every person engaged in the business of operating taxicabs or for-hire cars over the streets of the city shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(Code 1965, § 20-60; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 2578, 5-9-2000)

Cross reference— Taxicabs and for-hire cars, § 36-66 et seq.

Sec. 18-106. - Telegraph service.

Any person or company engaged in the business of sending telegrams from the city to a point within the state, or of receiving telegrams in the city from a point in the state, excepting, however, telegrams sent to or received by the government of the United States or this state, or their agents or officers, shall pay a license tax of $40.00.

(Code 1965, § 20-61)

Sec. 18-107. - Telephone service.

Every telephone company or person providing telephones or telephone service shall pay a license tax equal to one-half of one percent of the gross receipts accruing from sales to the ultimate consumer in the city. However, charges for long distance telephone calls shall not be included in gross receipts for the purposes of license taxation.

(Code 1965, § 20-62; Ord. No. 2462, 11-18-97)

Cross reference— Tax on purchasers of telephone service, § 35-114 et seq.

Sec. 18-108. - Temporary or transient businesses.

(a) Except as provided in subsection (b) of this chapter, every person who engages in, or transacts any temporary or transient business in the city for the sale of any goods, wares, merchandise or services and who, for the purpose of carrying on such business, hires, leases, uses or occupies any building or structure, motor vehicle, tent, car, boat or public room, or any part thereof, including rooms in hotels, lodging houses or houses of private entertainment, or in any street, alley or other public place, for the exhibition of or sale of

such goods, wares, merchandise or services, shall pay for such privilege a tax of $500.00. Any such person conducting business in the city for thirty (30) consecutive days or more shall obtain the license and pay the tax or fee required by sections 18-5 and 18-5.2 of this chapter. The license required by this section shall not be transferable.

(b) (1) The sale of goods, wares, merchandise and services in the city by merchants and vendors at a community event or an event conducted by a nonprofit charitable organization is hereby recognized as a distinct activity. Any organization conducting such an event may obtain an umbrella license from the commissioner of the revenue that will satisfy the business license requirement for business transacted by all registered merchants and vendors at the event. For any other business conducted in the city by any such merchant or vendor, the appropriate license required by this chapter must be obtained.

(2) The cost of the umbrella license described in subsection (b)(1) shall be $10.00 per merchant or vendor; provided, however, that regardless of the number of merchants and vendors, the cost of such license shall not be less than $50.00 nor more than $500.00.

(3) Notwithstanding subsection (b)(2) a community event sponsored by a nonprofit church or other religious body or a nonprofit parent-teacher association may obtain an umbrella license described in subsection (b)(1) for no cost provided: (i) the nonprofit church or other religious body or a nonprofit parent-teacher association makes proper application to the commissioner of the revenue; (ii) the duration of the community event is limited to one calendar day; and (iii) such umbrella license is only applicable to merchants or vendors and is not applicable to other activities such as the sale of prepared food or alcohol.

(4) As used in this section, a "community event" is any fair, show, exhibition, or celebration conducted over a period of less than thirty (30) consecutive days for which a permit is required pursuant to section 4-1 or section 24-6 of this Code, and has been obtained. A "nonprofit charitable organization" means a nonprofit corporation organized for charitable purposes that has been designated by the Internal Revenue Service as a 501(c)(3) organization.

(5) For purposes of this section, a person shall be considered a merchant or vendor at a community or charitable event only if he or she (i) has registered with the event organizer, and (ii) only conducts business within the boundaries of the area in which the event is held.

(6) Any organization issued an umbrella license pursuant to subsection (b) of this section shall, within ten (10) days of the last day of the event for which such license was issued, file with the commissioner of the revenue on a form prescribed by the commissioner of the revenue, a final accounting of the merchants and vendors who actually conducted business at the event.

(7) The provisions of this subsection are applicable only to the activities of temporary or transient merchants and vendors, and shall not be applicable to other licensable activities, including, but not limited to, persons operating amusement and recreation parks, businesses or carnivals, street fairs and tent shows. Any person who does business at a community event or event conducted by a qualifying nonprofit organization and is not registered as a merchant or vendor for the event shall be considered a temporary or transient merchant as described in subsection (a), and shall be required to pay the tax required by that subsection.

(c)

Every person who has not been licensed for at least one year to sell or to offer for sale goods, wares or merchandise, and who shall apply for a license to offer or sell goods, wares or merchandise within the city, shall file, with the application for such license, an affidavit from the owner of the building, structure or other property to be used by such applicant, showing for what period of time the property to be used by such applicant has been hired or leased by such applicant. No license, the license tax for which is set out in this section, shall be issued unless such affidavit is attached to the application; provided, however, that the commissioner of the revenue may, in lieu of such affidavit, issue a regular merchant's or regular auctioneer's license to any applicant upon the giving of a bond or security in such amount as will equal the specific tax required by this section for a period of one year from the date of the applicant for such license. Such bond or security shall provide that such amount shall be paid to the city in the event and at any time during any such year that the commissioner of the revenue shall receive sufficient evidence showing that it was the applicant's intention to engage in or transact a temporary or transient business in the city.

(d) No person shall be exempt from the payment of the license tax imposed by this section by reason of associating temporarily with any local merchant, dealer, trader or auctioneer, or by reason of conducting such temporary or transient business in connection with or as a part of the business in the name of any local merchant, dealer, trader or auctioneer.

(e) The provisions of this section shall not apply to the sale, at an auction, of any wagon, carriage, automobile, mechanics' tools, used farming implements, livestock, poultry (dressed or undressed), seafood, vegetables, fruits, melons, berries, flowers or leaf tobacco; or to the sale of used household furniture and used household effects, when being sold at the residence of the housekeeper desiring to dispose of the same; or to sales made to dealers by commercial travelers or selling agents or regularly established merchants or manufacturers selling to the trade by sample for future delivery from their established place of business; or to the sale of products raised upon lands leased or owned by the seller; or to the sale of vegetables, fruits or other farm products; or to hawkers on the streets; or to the sale of any goods by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this state or of the United States; or to peddlers licensed under this chapter.

(Code 1965, §§ 20-131—20-136; Ord. No. 1238, 11-16-81; Ord. No. 1448, 4-16-84; Ord. No. 2621, 3-13-01; Ord. No. 3375, 9-16-14; Ord. No. 3478, 12-13-16)

Sec. 18-108.1. - Temporary or transient church and non-profit fundraisers.

(a) The sale of ice cream or other ice confectioneries, candies or confections by a nonprofit charitable organization or nonprofit church is hereby recognized as a distinct activity. Any organization conducting such an event may obtain a license from the commissioner of the revenue that will satisfy the business license requirement, peddler permit, or solicitor permit for any volunteer or employee of such organization provided the sale of such products occurs upon the property of the nonprofit charitable organization or nonprofit church and the proceeds from the sale inure to benefit of the nonprofit charitable organization or nonprofit church.

(b) The cost of the license described in subsection (a) shall be ten dollars ($10.00) per year.

(c) The provisions of this section shall only apply to the business license requirement, peddler permit, or solicitor permit. Nothing herein shall relieve any such organization from compliance with land use, public health, or other applicable law or regulation.

(Ord. No. 3511, 6-20-17)

Sec. 18-108.2. - Mobile food vending.

(a) Vending food products at retail from a self-propelled motor vehicle or trailer is recognized as a distinct activity (mobile food vending), except for a vehicle operated solely for the sale of ice cream or other ice confectioneries, candies or confections operated under the provisions of section 13-46, et seq. or for food delivery.

(b) Each mobile food vendor shall pay a license tax rate of 0.20 percent of gross receipts. The business license tax set forth herein shall only be applied to gross receipts in the city and business licenses shall not be transferable.

(c) No license shall be issued under this section, unless that applicant for such license holds a permit from the director of health and the fire department.

(d) If the person vending food products at retail from a self-propelled motor vehicle or trailer has a business license for a definite place of business in the City of Virginia Beach, Virginia, then all motor vehicles located at the definite place of business may be included in this license tax. In the absence of a definite place of business, each vehicle or trailer shall obtain a business license, and that license is to be based upon the gross receipts for the retail transactions of such motor vehicle or trailer.

(e) All persons obtaining a license under this category and their employees will be required to obtain a criminal record check through the chief of police. The review of such criminal record check by the chief of police shall be the same as the process contained in City Code sections 26-33, 26-34 and 26-39. The approval or disapproval by the chief of police shall be transmitted to the commissioner of the revenue.

(Ord. No. 3581, 2-19-19; Ord. No. 3704, 8-9-22)

Sec. 18-108.3. - Mobile food units; new business; registration; penalties.

(a) For purposes of this business license sub-classification, the following definitions shall apply:

Mobile food unit means a restaurant that is a self-propelled motor vehicle or trailer and readily movable from place to place at all times during operation.

New business means a business that locates for the first time to do business in a Virginia locality. A business shall not be deemed to be a new business based on a merger, acquisition, similar business combination, name change, or change to its business form.

(b) If the owner of a new business that operates a mobile food unit pays the license tax required by another Virginia locality in which the mobile food unit is registered, such owner shall not be required to pay a license tax in the city for a period of two (2) license years after the payment of the initial license tax in the Virginia locality in which the mobile food unit is registered. The preferential business license tax treatment provided by this section may apply to up to three mobile food units provided all three (3) units are registered in the same Virginia locality and there is a shared owner of the three (3) units.

(c) At the conclusion of the two (2) license year period described in subsection (b), the mobile food unit shall register for the business license set forth in section 18-108.2 and complete all requirements set forth therein.

(d) Prior to operation in the city, any owner of a mobile food unit subject to this section shall register with the commissioner of the revenue regardless of whether the owner is exempt from paying the license tax pursuant to this section.

(e) The commissioner of the revenue shall assess a statutory assessment for meals taxes for any owner that fails to register with the commissioner of the revenue prior to conducting taxable meals tax transactions.

(f) Upon the second occurrence of a mobile food unit failure to register with the commissioner of the revenue as required by subsection (d), the commissioner shall levy a penal fine of five hundred dollars ($500.00) upon the owner of the mobile food unit. This fine shall be in addition to any statutory assessment or other remedy for the failure to collect and remit meals taxes.

(g) Upon the second or subsequent occurrence of a mobile food unit failure to register with the commissioner of the revenue as required by subsection (d), the commissioner of the revenue shall require the mobile food unit post a bond with corporate surety to insure the faithful performance of the mobile food unit's duties to the city as to meals taxes collected and held in trust for the city. The bond, including corporate surety thereon, shall be in a form deemed satisfactory to the city attorney. The bond shall not be in an amount less than one thousand dollars ($1,000.00). The commissioner of the revenue may accept an irrevocable letter of credit in lieu of a bond required by this subsection, provided the letter must be reviewed and approved by the city attorney. The owner of a mobile food unit required to obtain the bond described herein shall be guilty of a Class 1 misdemeanor for the failure to produce the evidence of compliance when demand for same has been made by either an agent of the commissioner of the revenue or any law enforcement officer.

(h) Any requirement imposed under the city's police power to require a criminal records check or certain limitations upon parking set forth in section 18-108.2 or elsewhere in the City Code shall apply to any business subject to this section.

(Ord. No. 3594, § 1, 6-18-19)

Sec. 18-109. - Theatres for moving pictures.

(a) The license tax rate for every person engaged in the business of furnishing entertainment by the use of moving or talking pictures in a theatre or drive-in establishment where a charge is made for admission shall be 0.36 percent of the gross receipts, exclusive of any federal or city excise tax thereon, received for admissions during the preceding calendar year. Where merchandise is sold at any such theatre, a merchant's license shall be required in addition to the above.

(b) No license shall be issued for furnishing entertainment by the use of moving or talking pictures in a theatre or drive-in establishment unless there is presented to the commissioner of revenue a permit from the city council for the operation of such theatre or drive-in establishment.

(Code 1965, §§ 20-88, 20-89; Ord. No. 1516 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-110. - Theatrical performances, etc.

(a) The license tax rate for every theatrical performance or any performance similar thereto, panorama or any public performance or exhibition of any kind, except motion pictures, where an admission fee is charged, there shall be 0.36 percent of the gross receipts therefrom.

(b) Any person conducting a theatre may take out an annual license by paying the same annual license tax provided by section 18-109 for moving picture theaters.

(c) No license tax shall be charged under this section when the whole of the net proceeds are applied for religious, charitable or educational purposes.

(Code 1965, § 29-90; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Cross reference— Permit for special events, § 4-1.

Sec. 18-111. - Reserved.

Editor's note— Ord. No. 1516, adopted Feb. 4, 1985, effective May 1, 1985, repealed § 18-111, concerning tobacco retailers, as derived from Code 1965, § 20-63.

Sec. 18-112. - Trading stamps, premium coupons, etc.

(a) The license tax rate for every person engaged in the business of selling or issuing trading stamps or any similar devices to merchants or redeeming trading stamps or any similar devices, giving money rebates or other things of value to therefor, shall be 0.36 percent of the value of the trading stamps or any similar devices sold, issued or redeemed in such business during the preceding calendar year.

(b) The license tax rate for every person who shall redeem, on behalf of any manufacturer, premium coupons, certificates or similar devices attached to original packages put up by such manufacturer and sold under his trade name, brand or mark shall be 0.36 percent on the value of the premium coupons, certificates or similar devices.

(c) As used in this section, the word "value" shall mean the value of the money rebates or the average value, if sold at retail, of the goods, merchandise, commodities or other things of value for which the trading stamps or any similar derives may be redeemed.

(d) The license taxes specified in this section shall not be imposed upon any person who shall issue stamps or any similar devices directly to any customer, where redemption is made by such person directly to such customer without intervention of any third person.

(Code 1965, §§ 20-202—20-205; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Sec. 18-113. - Trailer courts.

(a) For the purposes of this section, the words "trailer court" shall mean a space provided for two (2) or more occupied house trailers.

(b) The license tax rate for every person conducting the business of keeping a trailer court shall be 0.36 percent of the gross receipts of the business during the preceding calendar year.

(Code 1965, § 20-129.1; Ord. No. 1357, 3-7-83; Ord. No. 1444, 3-26-84; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Cross reference— Mobile homes, Ch. 19.

Sec. 18-114. - Transportation and warehousing businesses.

(a) The license tax rate for every person engaged in any transportation and warehousing business shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(b) Transportation and warehousing businesses referred to in this section shall include those businesses set out below and any miscellaneous transportation and warehousing business not elsewhere classified:

(1) Local trucking and storage.

(2) Farm product warehousing and storage.

(3) Refrigerated warehousing.

(4) Food lockers, with or without food preparation facilities.

(5) Household goods warehousing and storage.

(6) General warehousing and storage.

(7) Towing and tugboat service.

(8) Excursion boats.

(9) Sight-seeing boats.

(10) Water transportation services, not elsewhere classified:

a. Boat hiring, except pleasure.

b. Boat yards, storage and incidental repair.

c. Marine salvaging.

d. Rental or charter of commercial boats.

(11) Flying charter service.

(12) Sight-seeing airplane service.

(13) Airports and flying fields.

(14) Pipeline transportation.

(15) Transportation services.

(16) Arrangement of transportation.

(17) Stockyards.

(18) Packing and crating.

(Code 1965, § 20-51; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96; Ord. No. 3455, 7-12-16)

Sec. 18-114.1. - Marine cargo shipping.

The license tax rate for every person engaged in the business of marine cargo shipping, not arrangement of transportation, haulers or deliverers, shall be as follows:

(a) 0.36 percent of the gross receipts during the preceding year up to $500,000.00, plus

(b) 0.000001 percent of the gross receipts during the preceding year in excess of $500,000.00.

(Ord. No. 3455, 7-12-16)

Sec. 18-115. - Water and sewer companies.

Every public service corporation engaged in the business of furnishing water or sewerage service or facilities to the inhabitants of the city shall pay for the privilege a license tax of one-half of one percent of the gross receipts from any one or more of such businesses whether such corporation is franchised by the city or not.

(Code 1965, § 20-65)

Cross reference— Sewers, Ch. 28; water supply, Ch. 37.

Sec. 18-116. - Wrecking or salvaging automobiles.

The license tax rate for every person engaged in the business of wrecking or salvaging automobiles, having an office or representative or making contracts for work or soliciting work in the city, shall be 0.36 percent of the gross receipts in such business during the preceding calendar year.

(Code 1965, § 20-67; Ord. No. 1516, 2-4-85; Ord. No. 2390, 5-14-96)

Cross reference— Automobile graveyards, § 25-23 et seq.

Secs. 18-117—18-200. - Reserved.

ARTICLE III. - BUSINESS LICENSE INCENTIVE PROGRAM FOR NEW BUSINESSES

Sec. 18-201. - Purpose and intent.

The city council finds that the development of its business tax base requires a business license incentive program for new businesses ("incentive program"), and determines that a reduction in the business license taxes for qualifying new businesses will foster business development and encourage entrepreneurialism.

(Ord. No. 3184, 6-28-11)

Sec. 18-202. - Administration.

This article shall be administered and enforced by the commissioner of the revenue.

(Ord. No. 3184, 6-28-11)

Sec. 18-203. - Effective date.

This article shall be effective January 1, 2012.

(Ord. No. 3184, 6-28-11)

Sec. 18-204. - Definitions.

For purposes of this article, the following words shall have the meanings ascribed to them in this section:

Acquisition shall mean the combination of two (2) or more existing businesses where one (1) business acquires the ownership of the other business(es).

Business license year shall mean calendar year.

Change in business form shall mean a change in the organization of an existing business. A change in business form occurs whether such change is voluntary or involuntary, recognized by the state corporation commission or not recognized by the state corporation commission. A change in business form shall include a new business entity that meets the definition of "affiliated group," as that term is defined in Code of Virginia § 58.1-3700.1, and such business conducts business activities that are similar to one (1) or more of the affiliated businesses. However, a new business entity that meets the affiliation definition but undertakes a business that conducts substantially different business activities shall not be treated as a change in business form.

Merger shall mean the combination of two (2) or more existing businesses to establish a new business.

Name change shall mean the change in the name upon which a business trades. A name change occurs whether or not the business registers such name or change of name with the state corporation commission.

Qualifying business shall mean a business that locates for the first time in the city after the effective date of this article. A business shall not be deemed to locate in the city for the first time based on a merger, acquisition, similar business combination, name change, or a change in business form. A business shall not be deemed to locate in the city for the first time if there is an existing business in the city trading under the same or substantially similar business name, the businesses conduct similar business activities, and the businesses are related either by a shared ownership structure or a contractual relationship such as a franchisor/franchisee relationship. A qualifying business shall not include peddlers and itinerant merchants. A qualifying business shall not include a contractor required to obtain a business license by Code of Virginia § 58.1-3715(B). When applying for any benefit afforded under this article, the applicant shall have the burden of proving qualification as a qualifying business.

Similar business combination shall mean any transaction that is of the same nature as a merger or an acquisition.

(Ord. No. 3184, 6-28-11)

Sec. 18-205. - Presumption.

The incentive program is a program in the nature of a partial tax exemption. As such, the rule of construction provided by article X, section (f) of the Constitution of Virginia shall apply.

(Ord. No. 3184, 6-28-11)

Sec. 18-206. - Application and appeal.

(a) Any business seeking to qualify as a qualifying business shall complete an application in writing. The application shall be on forms developed by the commissioner of the revenue.

(b)

Any determination of qualification or of nonqualification as a qualifying business shall be in writing by the commissioner of the revenue.

(c) The appeal of a determination of nonqualification shall follow the appeal process of any other business license tax decision.

(Ord. No. 3184, 6-28-11)

Sec. 18-207. - Business license tax reduction.

(a) A qualifying business that would otherwise be required to pay license taxes pursuant to City Code section 18-5.2(d) shall be entitled to pay business license taxes at the fifty dollars ($50.00) flat fee provided by City Code section 18-5.2(c).

(b) The license tax reduction provided in subsection (a) shall apply to the business license year in which the qualifying business locates in the city and the following business license year.

(c) A qualifying business shall forfeit any entitlement to the license tax reduction provided in subsection (a) if such business is delinquent on any local tax including but not limited to personal property taxes, real property taxes, admissions taxes, meals taxes, and transient occupancy taxes.

(Ord. No. 3184, 6-28-11)

Sec. 18-208. - Obligations of a qualifying business.

(a) Nothing in this article shall be construed to repeal any requirement of businesses within the city to maintain records or comply with an audit by the commissioner of the revenue.

(b) A qualifying business shall report its personal property and gross receipts to the commissioner of the revenue, at such times and in such manner as required by law and the failure to timely report shall result in the forfeiture of any entitlement to the license tax reduction provided by subsection (a) of section 18-206.

(Ord. No. 3184, 6-28-11)

Chapter 18.5 - MASSAGE THERAPY

> *Footnotes:*
> *--- **(1)** ---*
> ***Cross reference—** License Code, Ch. 18.*

Sec. 18.5-1. - Definitions.

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

Certified massage therapist means any person who administers a massage to a client, in exchange for consideration, and who is qualified as a certified massage therapist pursuant to the requirements of Code of Virginia section 54.1-3029.

Client means any person who receives a massage in exchange for consideration.

Massage and massage therapy mean the treatment of soft tissues for therapeutic purposes by the application of massage and body work techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The terms "massage" and "massage therapy" do not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture or podiatry is required by law.

Massage establishment means a fixed place of business where a certified massage therapist gives a client a massage.

(Ord. No. 2599, 7-11-00)

Sec. 18.5-2. - When and where massages may be given.

Except as provided in section 18.5-5 of this chapter, it shall be unlawful for any person to give a massage in exchange for consideration within the city unless the person giving the massage is a certified massage therapist.

(Ord. No. 2599, 7-11-00; Ord. No. 2678, 12-11-01)

Sec. 18.5-3. - Display or presentation of certificate.

Each certified massage therapist shall conspicuously post his or her current certificate issued by the State Board of Nursing in a public area at his or her massage establishment or, in the case of an off-premises massage, shall present his or her certificate to the client.

(Ord. No. 2599, 7-11-00)

Sec. 18.5-4. - Prohibited advertising.

It shall be unlawful for a person who is neither a certified massage therapist nor a member of a profession exempted pursuant to section 18.5-5 of this chapter, or for a business in which all of the employees who administer massages are neither certified massage therapists nor members of an exempted profession, to use the word "massage" on any sign or other form of advertising, including a listing in a telephone or other business directory.

(Ord. No. 2599, 7-11-00; Ord. No. 2678, 12-11-01)

Sec. 18.5-5. - Exemptions.

The provisions of this chapter shall not be applicable to the following persons while such persons are engaged in the performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors and osteopaths duly licensed to practice their respective professions in the state.

(2) Physical therapists duly licensed to practice physical therapy by the state.

(3) Employees of nursing homes and hospitals which are duly licensed by the state, provided the employees are acting under the direction and supervision of a licensed health care professional.

(4) Nurses duly licensed by the state.

(5) Trainers of any amateur, semi-professional or professional athlete or athletic team.

(6) Barbers and beauticians duly licensed by the state who administer massages only to the scalp, face, neck or shoulders of clients.

(7) Students of state-approved massage therapy program, provided the students are acting under the direction and supervision of a certified massage therapist.

(Ord. No. 2599, 7-11-00)

Sec. 18.5-6. - Violation.

A violation of any provision of this chapter shall constitute a Class 3 misdemeanor.

(Ord. No. 2599, 7-11-00)

Chapter 19 - MOBILE HOMES

Footnotes:
*--- (**1**) ---*
Cross reference— *Buildings and building regulations, Ch. 8; housing and building maintenance code, Ch. 16; license tax for trailer courts, § 18-113; maximum length of combination of towing vehicle and mobile home or house trailer, § 21-195; sewers and sewage disposal, Ch. 28; water supply, Ch. 37; zoning ordinance generally, App. A; provisions of zoning ordinance relative to mobile homes, App. A, § 238; mobile homes at recreational campgrounds, App. A, § 240; subdivision ordinance, App. B.*
State Law reference— *Mobile home safety law, Code of Virginia, § 36-70 et seq.*

ARTICLE I. - IN GENERAL

Sec. 19-1. - Definitions.

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

Freestanding mobile home: A mobile home that is not located in a mobile home park.

Mobile home: Any vehicle designed, maintained and offered or used for living or sleeping purposes which is equipped or intended to be equipped with wheels or other devices for the purpose of transporting the unit.

(Code 1965, § 35-1)

Sec. 19-2. - Violations of chapter.

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

Secs. 19-3—19-15. - Reserved.

ARTICLE II. - FREESTANDING MOBILE HOMES

Sec. 19-16. - Enforcement of article.

This article shall be enforced by the director of public works or his designee.

(Code 1965, § 35-5; Ord. No. 1006, 11-19-79; Ord. No. 2148, 6-23-92)

Sec. 19-17. - Permit required.

It shall be unlawful for any person to maintain, operate, occupy or use a freestanding mobile home, unless such person shall have obtained a permit therefor from the department of public works.

(Code 1965, § 35-2; Ord. No. 2148, 6-23-92)

Sec. 19-18. - Temporary use.

A permit for a temporary freestanding mobile home, to be used exclusively for office quarters while the construction of the principal building is being planned and completed or as temporary office quarters for firms engaged in highway construction, building construction and trucking operations may be issued by the department of public works for a period not to exceed one calendar year, provided all requirements of the city zoning regulations are otherwise complied with. Such permit may be renewed for additional twelve-month periods.

(Code 1965, § 35-3; Ord. No. 2148, 6-23-92)

Cross reference— Zoning Ordinance, App. A.

Sec. 19-19. - Location in agricultural districts.

(a) A permit to allow one (1) freestanding mobile home may be approved by the department of public works in any area zoned agricultural district, provided the following conditions are complied with:

(1) The mobile home is located to the rear or side and on the same lot or parcel with a principal residential building and all dimensional requirements for two (2) dwellings are complied with and the required yards or open space of the principal dwelling are not encroached upon.

(2) The mobile home is not located within four hundred (400) feet of any other residence existing at the time application is made to locate the mobile home.

(3) The immediately adjoining property owners and those directly across the fronting street shall be notified by the department of public works of the receipt of an application to place a mobile home. Such notice shall be mailed at least fifteen (15) days prior to the issuance of a permit by the department of public works. The address to which such notice shall be sent by the department of planning shall be that as shown on the tax records of the city.

(4) The department of public works shall not issue a permit to locate a freestanding mobile home until the method of sewage disposal for such mobile home is approved by the department of public health.

(5) A freestanding mobile home authorized under the terms of this section shall not be occupied by anyone not a member of the immediate family resident in the principal dwelling on the lot or parcel and such mobile home shall not be occupied by more than one (1) family. For the purpose of this section, a member of the immediate family is defined as any person who is a natural or legally adopted child, grandchild or spouse or parent of the owner.

(6) The department of planning shall, upon written receipt of an objection from persons set forth in (3) above to the placement of a freestanding mobile home, refer the application to the city council for approval or disapproval. If no objection is received by the department of public works, it shall be authorized to issue the freestanding mobile home permit at the expiration of the notification period.

(b) Notwithstanding the provisions of subsection (a) hereof, the city council may, by resolution, allow the continuation of an existing freestanding mobile home if the circumstances under which the original approval took place change, provided the council finds the mobile home to be compatible with surrounding land use. In the resolution permitting such continuation, the city council may attach conditions and safeguards to its approval as it deems necessary to assure such compatibility.

(c) A temporary special permit may be issued by the department of public works for a period not to exceed nine (9) months in a case where a single-family dwelling has been destroyed or damaged by fire or other disaster to an extent which makes such dwelling uninhabitable and only where such dwelling is to be rebuilt or repaired.

(Code 1965, § 35-4; Ord. No. 1006, 11-19-79; Ord. No. 1822, 12-5-88; Ord. No. 2112, 2-4-92; Ord. No. 2148, 6-23-92)

Chapter 21 - MOTOR VEHICLE AND TRAFFIC CODE

Footnotes:

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***Editor's note—** Ord. No. 2903, adopted Dec. 13, 2005, repealed former Ch. 21 of the Code in its entirety and enacted new provisions as Ch. 21. Former Ch. 21, §§ 21-1—21-12, 21-14—21-23.1, 21-24—21-33.1, 21-34, 21-46—21-56, 21-71, 21-71.1, 21-72—21-75.1, 21-76, 21-77, 21-79, 21-85—21-86, 21-101—21-102.1, 21-103—21-111, 21-113—21-130, 21-141—21-160, 21-176—21-179, 21-191—21-207.4, 21-209—21-211, 21-226—21-251.1, 21-252—21-260, 21-271—21-276, 21-278—21-281, 21-294—21-300, 21-311—21-316.1, 21-317—21-321.2, 21-322, 21-323, 21-323.1, 21-324, 21-336, 21-336.1, 21-337, 21-338.1—21-338.11, 21-339—21-340.1, 21-341, 21-341.1, 21-341.3, 21-342—21-344, 21-356—21-374.1, 21-375—21-386, 21-394—21-395.1, 21-396—21-403, 21-405—21-407, 21-419—21-429, 21-440.1—21-440.11, 21-441—21-444, 21-456—21-468, 21-481—21-485, and 21-496—21-502, pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion of the provisions of Ord. No. 2903.*

***Cross reference—** Composition and general duties of traffic division of department of public works, § 2-271; operation of vehicle for display of announcements or advertisements thereon, § 3-6; use of radios, amplifiers, etc., on vehicles for advertising purposes, § 3-7; driving vehicles on beach or dunes, § 6-12; bicycles and other wheeled vehicles, Ch. 7; vehicles used for sale of ice cream, candy, etc., on streets, § 13-46 et seq.; storage of vehicles, § 16-40 et seq.; insurance prerequisite to issuance of license for rental of certain vehicles, § 18-22; injuring, tampering with, etc., vehicles, § 23-41; streets and sidewalks, Ch. 33; local vehicle license, § 35-275 et seq.; vehicles for hire, Ch. 36; zoning ordinance, App. A; subdivision ordinance, App. B.*

***State Law reference—** General authority of city to regulate traffic, Code of Virginia § 46.2-1300 et seq.*

ARTICLE I. - INCORPORATION OF TITLE 46.2 AND TITLE 18.2, CHAPTER 7, ARTICLE 2 OF THE VIRGINIA CODE; LOCAL AUTHORITY

Sec. 21-1. - Adoption of Title 46.2 and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the state code.

(a) Pursuant to the authority of § 46.2-1313 of the Code of Virginia, 1950, as amended, all of the provisions and requirements of the laws of the State contained in Title 46.2 and Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, as amended, and pursuant to § 1-220 of the Code of Virginia as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can not have application to or within the City, are hereby adopted and incorporated in this Chapter by reference and made applicable within the City. Such provisions and requirements are hereby adopted and made a part of this Chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with any provision of the Code of Virginia, which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia.

(b) Any change to any Section of this Article resulting from a future amendment to a state law that is adopted and incorporated by reference shall become effective at the same time the amended state law becomes effective.

(c) All definitions of words and phrases contained in the State law hereby adopted shall apply to such words and phrases, when used in this Chapter, unless clearly indicated to the contrary. Reference to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the City.

(Ord. No. 2903, 12-13-05; Ord. No. 2926, 2-28-06)

Sec. 21-2. - Title.

The provisions of this Chapter shall be known as the "Motor Vehicle and Traffic Code of the City of Virginia Beach, Virginia" and may be so cited.

(Ord. No. 2903, 12-13-05)

Sec. 21-3. - General powers of City Manager relative to traffic.

(a) The City Manager shall have final authority over the management and direction of all vehicular and pedestrian traffic in the City and of the parking and routing of vehicles in the interest of the public safety, comfort and convenience, not inconsistent with the provisions of this Chapter and Title 46.2 of the Code of Virginia. He may cause appropriate signs to be erected and maintained, designating residence and business districts, school, hospital and safety zones, highways and interurban railway crossings, turns at intersections, traffic lanes and such other signs as may be necessary to carry out the provisions of this chapter. He shall have power to regulate traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous or where, in his judgment, conditions may require. He may adopt any such regulations, not inconsistent with the provisions of this Chapter, as he shall deem advisable and necessary, and repeal, amend or modify any such regulation; provided, however, that such regulations shall not be deemed to be violated if, at the time of the alleged violation, any sign or

designation required under the terms of this Chapter is missing, effaced, mutilated or defaced, so that an ordinary observant person, under the same circumstances, would not be apprised of or aware of the existence of such regulations.

(b) Notwithstanding the provisions of subsection (a), the City Manager shall not implement any program or regulation which requires the payment of a fee to park in any public lot within or adjacent to the Municipal Center absent specific authorization from City Council.

(Ord. No. 2903, 12-13-05)

Sec. 21-4. - Compliance with chapter; general penalty for violations.

It shall be unlawful for any person to violate or refuse, fail or neglect to comply with any of the provisions of this Chapter. Unless otherwise specifically provided, a violation of this Chapter shall constitute a traffic infraction punishable by a fine of not more than two hundred fifty dollars ($250.00).

(Ord. No. 2903, 12-13-05)

Secs. 21-5—21-199. - Reserved.

ARTICLE II. - VEHICLE OPERATION

DIVISION 1. - GENERALLY

Sec. 21-200. - Blocking intersections or marked crosswalks.

No operator of a vehicle shall enter an intersection or a marked crosswalk, unless there is sufficient space beyond such intersection or crosswalk, in the direction in which such vehicle is proceeding, to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. No. 2903, 12-13-05)

Sec. 21-201. - Cruising.

(a) The City of Virginia Beach hereby finds and declares that the unregulated practice of cruising on Atlantic Avenue in the resort area creates substantial vehicular traffic congestion, including extended periods of gridlock; interferes with the smooth and orderly flow of both vehicular and pedestrian traffic; unduly interferes with the ability of police, fire, and rescue vehicles to respond to calls for assistance; and thereby endangers the health, safety and welfare of the City's citizens and visitors. By adoption of this Section, it is the intent of the City to regulate cruising on Atlantic Avenue in the resort area and thereby to alleviate the problems associated therewith.

(b) The following words and phrases shall, for purposes of this Section, have the meanings respectively ascribed thereto:

(i) *Cruising* or *to cruise* shall mean to operate a motor vehicle or low-speed vehicle, or as a custodian thereof, to permit its operation, past a traffic-control point two (2) times in the same direction within any three-hour period.

(ii) *Custodian* shall mean any person who is the owner of a motor vehicle or low-speed vehicle, or has custody thereof, and who is riding therein (or thereon) at the time of its operation.

(iii) *Enforcement period* shall mean the period from May 1 to September 30, inclusive, between the hours of 2:00 p.m. and 4:00 a.m., inclusive.

(iv) *Restricted area* shall mean Atlantic Avenue from and including the Rudee Inlet Loop to and including 31st Street.

(v) *Resort area* shall mean the area, from and including, the sidewalk on the west side of Pacific Avenue to the Atlantic Ocean between Rudee Inlet and 42nd Street.

(vi) *Traffic-control point* shall mean the location of any sign indicating that cruising is prohibited, or any point designated by the chief of police or his duly authorized designee which is located between any such signs.

(c) It shall be unlawful for any person to cruise in the restricted area during the enforcement period. A violation of this subsection shall constitute a traffic infraction, and each successive trip past a traffic-control point after a violation has occurred shall constitute a separate violation.

(d) Signs indicating that cruising is prohibited shall be posted at periodic intervals immediately adjacent to the restricted area. Such signs shall state substantially as follows:

NO CRUISING 2 P.M. TO 4 A.M.

UNLAWFUL TO PASS THIS POINT

2 TIMES IN 3-HOUR PERIOD

(e) The provisions of this Section shall not be applicable to the operator of a police, fire or rescue vehicle in the conduct of official duties, the operator of a common carrier, or the operator of any motor vehicle or low-speed vehicle when such motor vehicle or low-speed vehicle is being operated for business purposes.

(Ord. No. 2903, 12-13-05)

Secs. 21-202—21-219. - Reserved.

DIVISION 2. - TRAFFIC SIGNS, SIGNALS AND MARKINGS

Sec. 21-220. - Activation of traffic control signals by fire department and emergency medical services agency members.

Members of any fire department or any emergency medical services agency, when on duty, may activate electric traffic-control signals when such control signals are specifically authorized by the State Highway and Transportation Commissioner or the City Manager.

(Ord. No. 2903, 12-13-05; Ord. No. 3432, 11-17-15)

Sec. 21-221. - Reserved.

Editor's note— Ord. No. 3723, adopted February 21, 2023, repealed § 21-221, which pertained to duty to obey traffic signs and signals and orders of police officers and derived from Ord. No. 2903, 12-13-05.

Sec. 21-222. - Traffic signal enforcement program.

(a) *Establishment.* There is hereby established a traffic signal enforcement program pursuant to and in accordance with Code of Virginia § 15.2-968.1. The program shall include the installation and operation of traffic light signal violation monitoring systems in a number up to the maximum number permitted by state law. No traffic light signal violation monitoring system shall be operated for enforcement purposes at an intersection until all prerequisites for such operation have been fulfilled.

(b) *Implementation.* The city manager shall (i) have the authority to implement the provisions of this section, (ii) promulgate the rules and regulations necessary to administer the traffic signal enforcement program in compliance with all requirements of Code of Virginia § 15.2-968.1 and this section, and (iii) be responsible for the compliance of all aspects of the traffic signal enforcement program with applicable state law.

(c) *Private contractor.* The city may enter into an agreement with a private entity for the installation and operation of traffic light signal violation monitoring systems and related services as permitted by and subject to the restrictions imposed by Code of Virginia § 15.2-968.1(I).

(d) *Penalties.*

(1) For failure to comply with traffic light signal. The operator of a vehicle shall be liable for a monetary penalty of fifty dollars ($50.00) if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within the city. Any person found liable under this ordinance may contest the summons as provided by Code of Virginia § 15.2-968.1.

(2) For disclosure of personal information. Any person who discloses personal information collected by a traffic light signal violation monitoring system in violation of the provisions of Code of Virginia § 15.2-968.1(H) shall be subject to a civil penalty of one thousand dollars ($1,000.00).

(Ord. No. 3048, 9-2-08)

Sec. 21-223. - Video-monitoring systems in or on school buses.

(a) The School Board of the City of Virginia Beach dba Virginia Beach City Public Schools is hereby authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board or to contract with a private vendor to do so on behalf of the School Board for the purpose of recording violations of the Code of Virginia § 46.2-844(A).

(b) For purposes of this section, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia § 46.2-859.

(c) All video-monitoring systems installed on public school buses shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

(d) The driver of a motor vehicle found to be in violation of Code of Virginia § 46.2-859, based upon evidence obtained from a video-monitoring system, shall be liable for a civil penalty of two hundred fifty dollars ($250.00) imposed in accordance with this section if such vehicle is found, as evidenced by information obtained from a video-monitoring system in or on a school bus, to have violated Code of Virginia § 46.2-859 within the city. Any person found liable under this ordinance may contest the summons as provided by Code of Virginia § 46.2-844(A).

(e) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of violation of Code of Virginia § 46.2-859. Notwithstanding any other provision of law, all images or video or other personal information recorded by such video-monitoring systems shall be used exclusively for that purpose.

(Ord. No. 3562, 7-3-18)

Secs. 21-224—21-229. - Reserved.

DIVISION 3. - SPEEDING

Sec. 21-230. - Traffic calming via maximum speed limits in certain residential districts; penalty.

Pursuant to § 46.2-878.2 of the Code of Virginia, any person who operates a motor vehicle in excess of the maximum speed limit established for any portion of the following highways located within the designated neighborhoods, on or after the effective date, shall be guilty of a traffic infraction punishable by a prepayable fine of two hundred dollars ($200.00), in addition to other penalties provided by law. No portion of the fine shall be suspended unless the court orders twenty (20) hours of community service.

(1) L & J Garden: Norwich Avenue; Tajo Avenue; Fairlawn Avenue; Dulcie Avenue.

(2) Acredale: Andover Road; Langston Road; Bonneydale Road; Olive Road, Alton Road; Old Kempsville Road.

(3) Lake Shores: Jack Frost Road; Lake Shores Road.

(4) Little Neck: Harris Road.

(5) Lake Shores: Oak Leaf Lane, Tern Road; Lake Road S; Regina Lane; Meredith Road, School Road, Mosby Road, Frizzel Drive; Finn Road; Charla Lee Lane; Smith Farm Road.

(6) Brighton on the Bay: Templeton Lane; Wivenhoe Way; Starr Way.

(7) Baylake Pines/Baylake Beach: Ben Gunn Road; Indian Hill Road; Baylake Road; Rampart Avenue; Bayville Road; Lookout Road; Sandy Bay Drive.

(8) Country Haven: Stewart Drive.

(9) Fairfield: Lord Dunmore Drive.

(10) Bellamy Manor: Homestead Drive.

(11) Church Point: Church Point Road; Church Point Place; Timber Ridge Drive.

(12) Stratford Chase: Stratford Chase Drive; Minden Road; Violet Bank; Kittery Drive.

(13) Bayville Park: Greenwell Road (From Shore Drive to First Court Road).

(14) Milburn Manor: Davis Street.

(15) Lake James: Lake James Drive.

(16) Larkspur: Edwin Drive from Princess Anne Road to Independence Blvd.

Effective as of April 6, 2004:

(1) Croatan: Croatan Road.

(2) Birdneck Point: Cardinal Road.

Effective as of April 5, 2005:

(1) Thoroughgood: Thoroughgood Drive.

(2) Hermitage Road.

Effective as of September 12, 2006:

(1) Kings Grant: Oxford Drive.

Effective as of January 27, 2009:

(1) Baycliff: Baycliff Drive between Mill Dam Road and Stephens Road.

(2) Lakeview Park: Cullen Road between Shell Road and Lakeside Road.

Effective as of August 10, 2010:

(1) Bellamy Plantation: Grey Friars Chase between Lynnhaven Parkway and the 1900 block of Grey Friars Chase.

Effective as of September 5, 2018:

(1) Mediterranean Avenue between Virginia Beach Boulevard and Norfolk Avenue.

Effective as of November 12, 2019:

(1) Aragona: Sullivan Boulevard between Aragona Boulevard to Haygood Road.

(2) Red Mill: Red Mill Boulevard between General Booth Boulevard to Warner Hall Drive.

Effective as of November 17, 2020:

(1) Kings Grant: Kings Grant Road between Little Neck Road and Edinburgh Drive.

Effective as of October 4, 2022:

(1) Bay Island: Broad Bay Road.

(Ord. No. 2903, 12-13-05; Ord. No. 2961, 9-12-06; Ord. No. 3071, 3-10-09; Ord. No. 3149, 8-10-10; Ord. No. 3568, 9-4-18; Ord. No. 3604, 11-12-19; Ord. No. 3645, 11-17-20; Ord. No. 3714, 10-4-22)

Secs. 21-231—21-239. - Reserved.

DIVISION 4. - DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS

Sec. 21-240. - Reimbursement for expenses incurred from emergency responses.

(a) Any person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the city for restitution of reasonable expenses incurred by the city when issuing any related arrest warrant or summons. Further, any person so convicted shall at the time of sentencing or in a separate civil action, be liable to the city and to any responding volunteer rescue squads, or both for restitution of reasonable expenses incurred by the city or any volunteer rescue squad, for responding law enforcement, firefighting, rescue and emergency services, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation.

(1) The provisions of Code of Virginia §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02 or 46.2-341.24, when such operation of motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

(2) The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

(3) The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and

(4) The provisions of Code of Virginia § 46.2-894 relating to improperly leaving the scene of an accident.

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection (a) shall not exceed one thousand dollars ($1,000.00) in the aggregate for a particular accident, arrest or incident. In determining the "reasonable expenses" a flat fee of three hundred fifty dollars ($350.00) may be billed, or a minute-by-minute accounting of the actual cost incurred may be billed.

(c) As used in this section, "appropriate emergency response" includes all cost of providing law-enforcement, fire-fighting, rescue and emergency medical services.

(d) The provisions of this section shall not preempt or limit any remedy available to the commonwealth, the City of Virginia Beach, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

(Ord. No. 2903, 12-13-05; Ord. No. 3025, 5-27-08; Ord. No. 3093, 6-23-09; Ord. No. 3734, § 1, 5-9-23, eff. 7-1-23)

Secs. 21-241—21-249. - Reserved.

DIVISION 5. - OPERATION OF MOTORCYCLES, MINIBIKES, ETC.

Sec. 21-250. - Operation on private property; compliance with registration and licensing requirements.

(a) It shall be unlawful for any person to operate or permit to be operated any motorcycle, minibike, trail bike, motor scooter or other form of two (2) or more wheeled transportation propelled by an internal combustion engine, upon the private property of another, unless the operator of said vehicle has in his possession written authorization from the property owner or his agent.

(b) The owner of any privately owned property desiring enforcement upon his property of any provision of this section shall notify the chief of police or his authorized designee.

(c) When any police officer arrests a person and charges him with a violation of this section, such officer may seize the vehicle involved and deliver the same to the Chief of Police or his authorized designee, and the vehicle shall be held until the charge is disposed of by the court having jurisdiction; provided, that seizure shall not be made of any vehicle operated on private property, unless the owner of such property has complied with the requirements of subsection (b) above. In disposing of the charge, the court shall order the vehicle returned to its owner, except that, when any person has been convicted of a second or subsequent violation of this section, the judge may order such vehicle held by the chief of police or his authorized designee for a period not to exceed ninety (90) days.

(d) The provisions of this section shall not apply to emergency vehicles, government vehicles or to persons driving upon such property with the written consent of the owner or person in lawful possession of such property or to the property owner or his family, employees, agents or lessees.

(Ord. No. 2903, 12-13-05)

Sec. 21-251. - Reserved.

Editor's note— Ord. No. 3180, adopted May 24, 2011, repealed § 21-251, which pertained to unreasonable loud, disturbing, etc., noise from operation of motorcycle and derived from Ord. No. 2903, 12-13-05.

Sec. 21-252. - Boarding or alighting from moving vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Ord. No. 2903, 12-13-05)

Sec. 21-253. - Riding on portion of vehicle not intended for passengers; persons under sixteen prohibited from riding in cargo areas of pickup trucks.

(a) No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise; provided, however, no person under sixteen (16) years of age shall be transported in the rear cargo area of any pickup truck on any highway in this city.

(b) The provisions of this section shall not apply to transportation of persons in the bed of any pickup truck being operated (i) as part of an organized parade authorized by the state department of transportation or the city or (ii) on or across a highway from one field or parcel of land to another field or parcel of land in

connection with farming operations.

(Ord. No. 2903, 12-13-05)

Secs. 21-254—21-299. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

DIVISION 1. - GENERALLY

Sec. 21-300. - General authority of director of public works as to parking.

(a) Notwithstanding any provisions of this Chapter, the Director of Public Works is hereby authorized, when in his judgement it is in the public interest so to do, to set apart on any of the streets of the city spaces for loading and unloading merchandise, bus stops and other places in which no general parking shall be permitted, and he is further authorized to set aside spaces in which parking time shall be further limited or prohibited. Such action shall not be effective, unless signs or other markings are present, within or near such spaces, so as to apprise an ordinarily observant person of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of signs or other markings.

(b) This Section shall not be construed to authorize the Director of Public Works to designate parking meter zones or taxicab stands.

(Ord. No. 2903, 12-13-05)

Sec. 21-301. - Appointees to enforce parking regulations.

The City Manager is hereby authorized to appoint city personnel and/or personnel serving under contract with the City to enforce the provisions of Sections 21-303 through 21-310 of the City Code in addition to the regular police officers of the City. Such personnel shall wear a uniform as prescribed by the City Manager. Nothing shall preclude the City Manager from appointing personnel under this Section who may also have been appointed under Section 21-328 of the City Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-302. - Stopping or parking on highways generally.

(a) Except when actually loading or unloading merchandise, as permitted in this chapter, no vehicle shall be stopped except close to and parallel to the edge of the curb or roadway, except that a vehicle may be parked at an angle, where permitted.

(b) All trailers with a gross vehicle weight of less than ten thousand (10,000) pounds shall either be fitted with reflective tape or sheeting on the rear upright side posts of the trailer in a manner clearly visible to approaching traffic, or shall place a reflective cone behind the rear portion of the trailer which is closest to the center of the street.

(Ord. No. 2903, 12-13-05; Ord. No. 2962, 11-7-06; Ord. No. 2971, 2-27-07)

Sec. 21-303. - General parking prohibitions; penalties for violation.

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic-control device, in any of the following places:

(1) Within any designated fire lane.

(2) At any place so as to block any fire department connection.

(3) Within seventy-five (75) feet of the driveway entrance to any fire station if properly posted, or on the side of a street opposite the entrance to any fire station.

(4) In front of a public driveway.

(5) On the roadway side of any vehicle parked at the edge or curb of a street (double parking).

(6) Upon any bridge or other elevated structure upon a street or highway or within a tunnel.

(7) On the left-hand side of roadway of a two-way street. The provisions of this sub-section exclude those city vehicles operated by city employees executing official duties that require repeated vehicle exit and entry.

(8) At any place so as to impede or render dangerous the use of any street or highway.

(b) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic-control device, in any of the following places:

(1) On a sidewalk.

(2) On a crosswalk.

(3) Within twenty (20) feet of a marked crosswalk at an intersection.

(4) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(5) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

(6) Within fifty (50) feet of the nearest rail of a railroad grade crossing.

(7) Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic.

(8) At any place where official signs prohibit, reserve or restrict parking.

(9) In a residential or apartment district (area), if such vehicle is a commercial vehicle in excess of twenty (20) feet in length and/or seven (7) feet in height. This restriction shall not apply to commercial vehicles parked while engaged in the normal conduct of business or in the delivery or provision of goods or services in a residential or apartment district (area).

(10) At any place so as to prevent the use of a curb ramp located on public property or on privately owned property open to the public.

(11) At any place, angle parked or perpendicular to a curb, unless street markings permit.

(12) In a cul-de-sac other than close to and parallel to the edge of the curb or roadway, except in parking spaces approved and marked by the City or where a lawfully erected sign otherwise permits.

(13) On any street or highway or any city parking lot or other city-owned property for the purpose of selling or offering the vehicle for sale or rent. Factors that shall be considered in determining the purpose for which a vehicle is parked shall include, but not be limited to (i) the number, size and placement of signs offering the vehicle for sale or rent; (ii) the length of time the vehicle is parked; and (iii) the manner in which the vehicle is parked.

(c) No person shall park on any street or highway, or on any city parking lot, any vehicle which fails to display valid and current state license plates.

(d) Penalties.

(1) When a notice or citation is attached to a vehicle found parked in violation of any provision of this section or section 21-1 incorporating the provisions of Title 46.2 of the Code of Virginia, the owner of the vehicle may pay to the city treasurer, in satisfaction of any such violation, a penalty fine as listed below when such payment is postmarked or received by the city treasurer within fourteen (14) calendar day after issuance of such a notice or citation. Such payment shall constitute a plea of guilty to the violation in question.

(i) A penalty fine of thirty-five dollars ($35.00) for all parking violations citing City Code section 21-1 incorporating the parking provisions of Title 46.2 of the Code of Virginia.

(ii) A penalty fine of thirty-five dollars ($35.00) for a violation of any provision of subsection (a), except (a)(1), for each hour or fraction thereof during which such vehicle was unlawfully parked.

(iii) A penalty fine of twenty dollars ($20.00) for a violation of any provision of subsection (b) for each hour or fraction thereof during which such vehicle was unlawfully parked.

(iv) A penalty fine of thirty-five dollars ($35.00) for a violation of subsection (c) for each day or fraction thereof during which such vehicle was unlawfully parked.

(v) A penalty fine of fifty dollars ($50.00) for a violation of subsection (a)(1) for each hour or fraction thereof during which such vehicle was unlawfully parked.

(2) If such payment is not postmarked or received by the city treasurer within fourteen (14) calendar days after issuance of such notice or citation, the penalty fine shall increase to double that indicated above.

(3) For failure to respond to notices or citations within thirty (30) days, refer to subsection 21-312(b) below.

(Ord. No. 2903, 12-13-05; Ord. No. 2971, 2-27-07; Ord. No. 2988, 6-26-07; Ord. No. 3053, 9-23-08; Ord. No. 3065, 1-27-09; Ord. No. 3529, 1-9-18; Ord. No. 3723, 2-21-23)

Sec. 21-303.1. - Parking in spaces reserved for persons with disabilities; enforcement and penalties for violations.

Pursuant to Virginia Code § 46.2-1313, all of the provisions and requirements of Virginia Code § 46.2-1242, including, pursuant to Virginia Code § 1-220, future amendments, are hereby adopted and incorporated in this section by reference and made applicable within the City. Such provisions and requirements are hereby adopted and made a part of this section as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with Virginia Code § 46.2-1242. Any change to this section resulting from a future amendment to Virginia Code § 46.2-1242 shall become effective at the same time the state law amendment

becomes effective. All definitions of words and phrases contained in Virginia Code § 46.2-100 shall apply to such words and phrases when used in this section. In addition to the provisions contained in Virginia Code § 46.2-1242, the following provisions also apply:

(a) A summons or parking ticket for violation of the state law that prohibits unauthorized parking in spaces reserved for persons with disabilities may be issued by law-enforcement officers, uniformed law-enforcement department employees, or volunteers supervised by the Police Department, without the necessity of a warrant's being obtained by the owner of any private parking area.

(b) When a notice or citation is attached to a vehicle found parked in violation of this section, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the city treasurer, in satisfaction of such violation, a penalty of one hundred fifty dollars ($150.00). Such payment shall constitute a plea of guilty for the violation in question. If such payment is not postmarked or received by the city treasurer within fourteen (14) calendar days after receipt of such notice or violation, the penalty shall be two hundred fifty dollars ($250.00). The failure of any owner to make payment as prescribed above within thirty (30) days shall render such owner, upon conviction of such violation, subject to a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

(Ord. No. 2940, 5-9-06)

Sec. 21-304. - Parking or stopping for certain purposes prohibited.

(a) It shall be unlawful for any person to park or place any automobile, truck, trailer or other vehicle upon or in any street, alley or parkway for the purpose of selling or offering the same for sale or rent. No sign or lettering shall be attached or placed upon any automobile, truck, trailer or other vehicle parked in or upon any public street, alley or parkway in the City indicating that such vehicle is offered for sale or for rent.

(b) It shall be unlawful for any person to stop a vehicle at any time upon a highway for the purpose of advertising any article of any kind, or to display thereupon advertisements of any article or advertisement for the sale of the vehicle itself.

(Ord. No. 2903, 12-13-05)

Sec. 21-305. - Washing or greasing vehicle on highway or sidewalk.

No person shall, for compensation, wash, polish or grease a vehicle upon a highway or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased, for compensation, upon a highway or sidewalk.

(Ord. No. 2903, 12-13-05)

Sec. 21-306. - Backing to curb.

No vehicle shall be backed to a curb, except during the time actually engaged in loading or unloading merchandise therefrom.

(Ord. No. 2903, 12-13-05)

Sec. 21-307. - Reserved.

Editor's note— Ord. No. 2988, adopted June 26, 2007, repealed § 21-307, which pertained to parking vehicle without current state license and derived from Ord. No. 2903, 12-13-05.

Sec. 21-308. - Parking in street sweeping zones.

It shall be unlawful for any person to park any vehicle in a "no parking" zone designated for street sweeping during the respective hours as noted. It shall also be unlawful for any person to park any vehicle in a zone scheduled for street sweeping when proper notification has been given by the City through the placement of a notice on the windshield of vehicles located in the sweeping zone. The City has the right to remove any vehicle located within these zones during the designated times of street sweeping.

(Ord. No. 2903, 12-13-05)

Sec. 21-309. - Manner of using loading zones.

Where a loading or unloading zone has been set apart by the Director of Public Works in accordance with applicable provisions of this Chapter, the following regulations shall apply with respect to the use of such areas:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name, in letters three (3) inches high on both sides of the vehicle.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles, when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Ord. No. 2903, 12-13-05)

Sec. 21-310. - Manner of using bus stops and taxicab stands.

Where a bus stop has been set apart by the Director of Public Works in accordance with the applicable provisions of this Chapter or where a taxicab stand has been designated in accordance with Section 36-78 of this Code, the following regulations shall apply as to the use thereof: No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, where such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, the expeditious loading or unloading of passengers, when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Ord. No. 2903, 12-13-05)

Sec. 21-311. - Contest of parking citations.

Any person who shall desire to contest a parking citation shall present the citation at any office of the City Treasurer, who shall certify it on an appropriate form to the General District Court.

(Ord. No. 2903, 12-13-05)

Sec. 21-312. - Penalty for violations of division; fine for failure to pay in timely manner.

(a) Unless otherwise provided, when a notice or citation is attached to a vehicle or given to a driver pursuant to this Division, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of the violation, a penalty of thirty-five dollars ($35.00). Such payment shall constitute a plea of guilty to the violation. If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice or citation, the penalty shall be seventy dollars ($70.00).

(b) Any owner who, within thirty (30) days of notice or citation issuance, fails to either make payment as provided by this Division, or to present the citation or notice of violation at any office of the City Treasurer for certification to the general district court, shall be subject to a supplementary fine of not more than fifty dollars ($50.00) in addition to the penalty set forth in this Division.

(Ord. No. 2988, 6-26-07)

Secs. 21-313—21-319. - Reserved.

DIVISION 2. - PARKING METERS

Sec. 21-320. - Installation, maintenance, required signals, etc.

The City Manager shall have the authority to provide for the installation or placing of parking meters within the City and the regulation, control, operation and use thereof in accordance with the provisions of this Division and shall maintain such meters in good working condition. Such parking meters shall be placed upon the curbing immediately adjacent to individual parking spaces designated as provided in this Division. Each parking meter shall be placed or set in such a manner as to show or display a signal that the parking space assigned to it is or is not legally in use and to display, upon deposit of the proper coin of the United States of America therein, a signal indicating legal parking time for the time allotted for such coin for the part of the street upon which such meter is placed. Each meter shall be so arranged that, upon the expiration of such parking limit, or the portion thereof for which the necessary coin or coins have been deposited, it will indicate, by mechanical operation and proper signal, that the lawful parking period has expired.

(Ord. No. 2903, 12-13-05)

Sec. 21-321. - Designation of and method of parking in meter spaces.

(a) The City Manager or such officers and employees of the City as he shall select shall place lines or markings on the curb or in the street about or alongside of each parking meter installed pursuant to the provisions of this Division, to designate the parking meter space for which such meter is to be used. It shall be unlawful for any person to park any vehicle in any such space, except within the lines and markings designating such space.

(b) When a parking space in any parking meter zone is parallel with the adjacent curb or sidewalk, any vehicle parked in such space shall be parked so that the foremost part of such vehicle shall be alongside of and nearest to the parking meter. When a parking space in any parking meter zone is diagonal to the curb or sidewalk, any vehicle parked in such parking space shall be parked with the foremost part of such vehicle directed at and nearest to such meter.

(c) The number of vehicles allowed to be parked in a designated parking space in a parking meter zone shall be limited to one (1) vehicle per space.

(Ord. No. 2903, 12-13-05)

Sec. 21-322. - Deposit of coin required; exemption for senior citizens; overtime parking generally.

(a) When any vehicle shall be parked in any parking meter space designated as provided in this division, the operator of such vehicle shall, upon entering such space, immediately deposit, or cause to be deposited, one or more coins of the United States of America in the parking meter adjacent thereto, and such space may then be lawfully occupied by such vehicle during the period of parking time calculated at an hourly rate in an amount to be determined by the city manager or his designee, not to exceed, however, the maximum time prescribed by section 21-423. If such vehicle shall remain in such parking space beyond the period of parking time calculated at an hourly rate in an amount to be determined by the city manager or his designee, the parking meter shall display a sign or signal showing illegal parking, in which event, the vehicle parked in such parking space shall be considered as parked overtime and beyond the period of legal parking time.

(b) Notwithstanding the provisions of subsection (a) above, the City Manager or his designee may issue a parking permit to any citizen of the City who is sixty-five (65) years of age or older, which will allow the permittee to park in metered spaces in the area commonly known as Rudee Inlet Loop Wayside without depositing a coin or coins.

(c) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle to be parked overtime or beyond the period of legal parking time established for any parking space provided for in this division. It shall likewise be unlawful for any person to permit a vehicle to remain or to be parked in any parking space adjacent to any parking meter installed pursuant to the provi sions of this Division while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period of time prescribed for such parking space.

(Ord. No. 2903, 12-13-05; Ord. No. 3074, 3-24-09)

Sec. 21-322.1. - Veterans' paid parking exemption.

(a) A veteran to whom special license plates issued under Virginia Code Sections 46.2-741 (Pearl Harbor Survivor), 46.2-742 (Purple Heart), 46.2-742.1 (Bronze Star or Silver Star), 46.2-742.1:1 (Air Medal), 46.2-742.2 (Navy Cross, Distinguished Service Cross, Air Force Cross, or Distinguished Flying Cross), 46.2-745 (Medal of Honor), 46.2-746 (Prisoner of War), or 46.2-739 (Service-Disabled Veterans) have been issued, or a person transporting such veteran in a motor vehicle displaying special license plates, may park such motor vehicle, without charge, in a parking space in a City parking facility or a metered parking space.

(b) This section shall not exempt a vehicle displaying special license plates from compliance with any other state law or ordinance, including, but not limited to, limitations on the types of vehicles that may park in certain reserved parking spaces and time-based restrictions on parking in City parking facilities or metered parking spaces.

(Ord. No. 3029, 6-10-08; Ord. No. 3466, 11-1-16)

Sec. 21-323. - Parking for more than three hours in metered space; exemption for senior citizens.

Notwithstanding any other provisions of this Division, and whether or not coins have been deposited in a parking meter, no person shall park a vehicle in any parking space in a parking meter zone established by this Division for longer than three (3) hours at any one time. The three-hour limit shall not apply to any citizen of the City who is sixty-five (65) years of age or older who is parked in a metered space in the area commonly known as Rudee Inlet Wayside Loop and who has been issued and displays a permit obtained under the provisions of Section 21-322(b).

(Ord. No. 2903, 12-13-05)

Sec. 21-324. - Hours and dates during which Division is applicable.

(a) The provisions of this division shall apply to parking twenty-four (24) hours per day in all areas, every day including federal and state legal holidays and Sundays from April first to November first of each calendar year.

(b) Pursuant to section 21-320, the city manager shall have the authority to designate specific areas in which the hours and/or dates that the provisions of this division is applicable are different from the hours and/or dates set forth in subsection (a), provided that any such area is clearly identified by signs, curb markings or other means.

(Ord. No. 2903, 12-13-05; Ord. No. 3074, 3-24-09)

Sec. 21-325. - Use of metered space without deposit for loading, unloading, etc.

Operators of delivery vehicles may use, without deposit, any parking meter space referred to in this Division during the actual loading and unloading of such delivery vehicles. Operators of passenger vehicles, commercial or private, may use, without deposit, such a parking meter space for the purpose of promptly receiving or discharging any passenger.

(Ord. No. 2903, 12-13-05)

Sec. 21-326. - Establishment of loading zones, bus stops, etc., in meter zones.

The Director of Public Works may set apart, within the parking meter zones established by this Division, spaces for loading zones, bus stops and other places in which no parking by the general public shall be permitted; provided, however, that taxicab stands within such parking meter zones shall be designated as provided in Section 36-78 of this Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-327. - Purpose of required deposits.

The coins required to be deposited in parking meters, as provided in this Division, are hereby levied and assessed as fees to provide for the proper regulation and control of traffic on the public streets and to cover the cost of the supervision, inspection, installation, operation, maintenance, control and use of the parking meter spaces and regulating the parking of vehicles in the parking meter zones established by this Division.

(Ord. No. 2903, 12-13-05)

Sec. 21-328. - Appointment of persons to enforce Division.

The City Manager is authorized to appoint city personnel and/or personnel serving under contract with the City to enforce the provisions of this Division, except Section 21-331, in addition to the regular police officers of the City. Such personnel shall wear a uniform as prescribed by the City Manager.

(Ord. No. 2903, 12-13-05)

Sec. 21-329. - Duty of enforcing officers or persons with reference to violations of Division.

Each police officer or other person charged with the duty of enforcing this Division shall take the number of any parking meter at which any vehicle is parked in violation of this Division, the tag number of such vehicle and the length of time during which such vehicle is parked in violation of any provision of this Division and report the same to the police department and make proper complaint touching such violation. Each such officer shall attach to the vehicle in question a notice to the owner thereof that such vehicle has been parked in violation of a provision of the parking meter regulations and instructing such owner when and where to report with reference to such violation.

(Ord. No. 2903, 12-13-05)

Sec. 21-330. - Prepayment of penalty for parking in metered spaces in violation of division.

(a) When a notice is attached to a vehicle pursuant to section 21-329, the owner of the vehicle may, within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of the violation for which the notice was given, a penalty of twenty dollars ($20.00) for each hour or fraction thereof during which such vehicle occupied a parking meter space illegally. Such payment shall constitute a plea of guilty to the violation in question. If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice, the penalty for each hour or fraction thereof during which such vehicle occupied a parking meter space illegally shall be forty dollars ($40.00).

(b) The failure of any owner to make payment in accord with subsection (a) above or present the citation or notice of violation at any office of the City Treasurer for certification to the General District Court, within thirty (30) days shall render such owner subject to a fine of not more than fifty dollars ($50.00) in addition to the penalty set forth in subsection (a).

(Ord. No. 2903, 12-13-05; Ord. No. 3349, 5-13-14, eff. 7-1-14)

Sec. 21-331. - Injuring, defacing, etc., meters.

It shall be unlawful and a Class 1 misdemeanor for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed pursuant to this Division.

(Ord. No. 2903, 12-13-05)

Sec. 21-332. - Division does not affect other provisions as to traffic or parking.

Nothing in this division shall alter or affect any other provision of this Code or ordinance, rule or regulation of the city relating to traffic or parking on any street, alley, lane or highway within the city, other than those included within the parking meter zones established by this division.

(Ord. No. 2903, 12-13-05)

Secs. 21-333—21-349. - Reserved.

DIVISION 3. - RESIDENTIAL PARKING PERMITS

Sec. 21-350. - Objectives.

This division is adopted in order to reduce nighttime traffic congestion in public streets within residential neighborhoods; to reduce hazardous traffic conditions during nighttime hours in residential neighborhoods caused by the use of such streets for vehicular parking by persons attempting to avoid the use of nearby city meter-regulated parking; to protect residents of such neighborhoods from unreasonable noise and disturbance during nighttime hours; to protect such residents from unreasonable burdens in gaining access to their residences; and to protect and preserve the peace, good order, convenience and character of residential neighborhoods located in close proximity to commercial areas of the City.

(Ord. No. 2903, 12-13-05)

Sec. 21-351. - Definitions.

As used in this division:

(a) *Eligible business* shall mean a business located on or between the west side of Atlantic Avenue and the east side of Pacific Avenue, from Rudee Loop to 29th Street, or located on Winston Salem Avenue, but only if the business has not been authorized to reduce the required parking of such business. With

respect to the east side of Atlantic Avenue, "eligible business" includes only those businesses for which one or more employees were issued, in calendar year 2021, a monthly business parking permit in accordance with this division.

(b) *Motor vehicle* shall have the meaning set forth in § 46.2-100 of the State Code, and shall also include mopeds and motorcycles, as defined therein.

(c) *Residence* shall mean a single-family dwelling or a dwelling unit, as defined in Section 111 of the City Zoning Ordinance [Appendix A].

(d) *Residential area* shall mean an area designated on the zoning map of the city as a residential zoning district or an area containing streets primarily abutted by residences or other noncommercial uses, including, but not limited to, schools, parks and churches.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-352. - Designation of residential permit parking areas.

The City Manager or his designee is hereby authorized to designate as residential permit parking areas street blocks within any residential areas, or part thereof, which is located within one-half mile of a city meter-regulated parking area.

The City Manager or his designee is hereby authorized to create a resident induction policy for new neighborhoods or street blocks that are located with the residential parking permit regulated area.

The City Manager or his designee is hereby authorized to administratively remove a neighborhood or street blocks from the residential parking program when the dominant land use (seventy-five (75) percent of the parcels) on the street block is no longer used for residential purposes.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22)

Sec. 21-353. - Parking restrictions.

(a) In any area designated as a residential permit parking area, it shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on the street.

(b) In any area designated as a residential permit parking area, it shall be unlawful for any person to park any motor vehicle on the street between the hours of 6:00 p.m. and 6:00 a.m. unless the vehicle owner has a valid residential parking permit; provided, however, that the provisions of this Section shall not apply to emergency or governmental vehicles, to delivery or service vehicles while engaged in such delivery or service, or to vehicles displaying a valid guest pass plainly visible from the exterior of the vehicle.

(Ord. No. 2903, 12-13-05; Ord. No. 3692, 4-19-22; Ord. No. 3730, 4-4-23, eff. 7-1-23)

Sec. 21-354. - Permits generally.

(a) Following the designation of a residential permit parking area by the City Manager or his designee, the city's parking management office shall issue annual residential parking permits for the area so designated. One (1) permit shall be issued, upon application and payment of the prescribed fee, if applicable, for each motor vehicle owned by a person residing on a street within the residential permit parking area, or on a street within a residential area that is contiguous to the residential permit parking area as specified in subsection (b).

(b) An applicant for a permit shall present his motor vehicle registration and operator's license with the application. No permit shall be issued in the event either the registration or operator's license shows an address not within a designated residential permit parking area, unless the applicant demonstrates to the satisfaction of the city's parking management office that he is, in fact, a resident of such area, or that he is a resident of a residential area which is contiguous to a designated residential permit parking area and in which neither off-street nor nonmeter-regulated on-street parking is available. Any applicant who is a resident of such a contiguous residential area shall, upon receipt of a permit issued hereunder, be permitted to park in the designated residential permit parking area. Registered residential parking permit holders may obtain annual or temporary guest passes by applying to the city's parking systems management office. Temporary guest passes shall be issued and validated for up to seventy-two (72) hours.

(c) Monthly business parking permits shall be issued by the city's parking systems management office to businesses licensed to operate in city meter-regulated parking areas. A current valid business license must be presented by the business owner or his designee to the city's parking systems management office at the time a request is made for annual business parking permits. The number of permits issued to a single business shall be limited to the maximum number of employees required to work after 6:00 p.m. Employees of eligible businesses may purchase employee parking permit passes directly from the city's parking management office after verification of employment with an eligible business. Any business that has been authorized to reduce the required parking of such business shall not be eligible for such monthly business parking permits.

(d) Permits issued pursuant to subsection (a) shall not be transferable, and may be revoked in the event the city's parking management office determines that the owner of the vehicle for which a permit has been issued no longer resides in the residential permit parking area. Upon written notification of such revocation, the holder of the permit shall surrender such permit to the city's parking management office. The willful failure to surrender such permit shall be punishable by a fine in the amount of twenty-five dollars ($25.00).

(e) Permits issued pursuant to subsection (c) shall be transferable, and may be revoked in the event the city's parking management office determines that the number of permits exceeds the allowable number according to the criteria set forth in subsection (c).

(f) A replacement permit shall be issued upon proof of loss, theft or damage of the original permit, and payment of the replacement fee prescribed in section 21-359.

(Ord. No. 2903, 12-13-05; Ord. No. 3057, 11-25-08; Ord. No. 3407, 5-12-15, eff. 7-1-15; Ord. No. 3523, 12-5-17; Ord. No. 3692, 4-19-22; Ord. No. 3730, 4-4-23, eff. 7-1-23)

Sec. 21-355. - Signs.

Following the designation of a residential permit parking area, the traffic engineer shall cause to be posted in appropriate locations within such area signs indicating the restrictions set forth in section 21-353.

(Ord. No. 2903, 12-13-05)

Sec. 21-356. - Unauthorized use or display of permit.

It shall be unlawful for any person to use or display, or to allow to be used or displayed, a permit issued under this division upon any vehicle other than the vehicle for which the permit was issued.

(Ord. No. 2903, 12-13-05)

Sec. 21-357. - Obtaining permit by false pretenses.

It shall be unlawful for any person falsely to represent himself as eligible for a permit under this division or to furnish any false information in, or in conjunction with, an application for a residential parking permit.

(Ord. No. 2903, 12-13-05)

Sec. 21-358. - Penalties for violation of residential parking restrictions.

(a) When a notice or citation is attached to a vehicle parked in violation of section 21-353, the owner may within fourteen (14) calendar days thereafter, pay to the City Treasurer, in satisfaction of such violation, a penalty of seventy dollars ($70.00). If such payment is not postmarked or received by the City Treasurer within fourteen (14) calendar days after receipt of such notice or citation, the penalty therefore shall be one hundred forty dollars ($140.00). Additionally, any vehicle parked in violation of section 21-353 may be towed at the direction of a law enforcement officer.

(b) The failure of any owner to make payment in accordance with subsection (a) above or to present the notice or citation for a violation of section 21-353 at an office of the City Treasurer for certification to the General District Court within thirty (30) days shall render such owner subject to a fine of not more than fifty dollars ($50.00) in addition to the penalty set forth in subsection (a) above.

(c) A violation of section 21-356 or 21-357 shall be punishable by a fine in an amount not to exceed one hundred dollars ($100.00).

(Ord. No. 2903, 12-13-05; Ord. No. 3306, 9-24-13)

Sec. 21-359. - Fees.

Fees required under this division shall be set in an amount to be determined by the City Manager or his designee. For a temporary guest permit, no fee. No more than ten (10) temporary guest permits shall be issued per week per residence. The city's parking systems management office may consider requests for more than ten (10) temporary guest permits per week per residence on a case-by-case basis.

(Ord. No. 2903, 12-13-05; Ord. No. 3057, 11-25-08; Ord. No. 3407, 5-12-15, eff. 7-1-15; Ord. No. 3448, § 1, 4-19-16)

Sec. 21-360. - Appointees to enforce parking regulations.

The city manager shall be authorized to appoint city personnel and/or personnel serving under contract with the city, in addition to regular police officers of the city, to enforce the provisions of this division. Such personnel shall, while performing their duties pursuant to this division, wear a uniform prescribed by the city manager.

(Ord. No. 2903, 12-13-05)

DIVISION 4. - RESERVED

Secs. 21-361—21-380. - Reserved.

DIVISION 5. - CAVALIER SHORES RESIDENTIAL PERMIT PARKING PILOT PROGRAM

> *Footnotes:*
> *--- (**2**) ---*
> ***Editor's note—** Ord. No. 3729, effective April 5, 2023, and that, absent additional action by the City Council to the contrary, this ordinance shall automatically sunset and expire on April 5, 2026.*

Sec. 21-381. - Reserved.

Editor's note— Ord. No. 3729, adopted April 4, 2023, repealed § 21-381, which pertained to objectives and derived from Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22.

Sec. 21-382. - Definitions.

As used in this division:

(a) *Motor vehicle* shall have the meaning set forth in Code of Virginia, § 46.2-100, and shall also include mopeds and motorcycles, as defined therein.

(b) *Cavalier Shores Neighborhood* refers to all on-street parking on the south side of 45th Street; the alley between 45th Street and 44th Street; both sides of 44th, 43rd ½, 43rd, and 42nd ½ Streets; the north side of 42nd Street; the alley that runs parallel to the west side of Atlantic Avenue from Cavalier Drive to 45th Street; and the north side of Cavalier Drive between Holly Road and Atlantic Avenue.

(Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22)

Sec. 21-383. - Parking restrictions.

(a) It shall be unlawful for any person to park or otherwise leave unattended any all-terrain vehicle, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, electric-powered wheeled device, gas-powered wheeled device, low-speed vehicle, moped or similar wheeled device on any street in the Cavalier Shores Neighborhood.

(b) It shall be unlawful for any person to park a motor vehicle on any street in the Cavalier Shores Neighborhood, where notice of these restrictions have been conspicuously posted in accordance with this Division, for longer than a four-hour period in any day unless there is affixed to the driver's side exterior surface of the windshield of such motor vehicle a valid residential parking permit or a temporary guest pass as authorized by subsection 21-354(b) hanging from the rearview mirror.

(Ord. No. 3582, 3-5-19; Ord. No. 3687, 4-6-21; Ord. No. 3689, 3-15-22)

Sec. 21-384. - Permits generally.

The city treasurer or the city's parking management office shall issue residential parking permits pursuant to this division in accordance with the procedures set forth in section 21-354. However, no permit shall be issued pursuant to this section for employee parking in the Cavalier Shores Neighborhood.

(Ord. No. 3582, 3-5-19; Ord. No. 3689, 3-15-22)

Secs. 21-385—21-399. - Reserved.

ARTICLE IV. - USE OF TOW TRUCK SERVICE TO ENFORCE PARKING RESTRICTIONS ON PRIVATE PROPERTY

Sec. 21-400. - Definitions.

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

Custodian means any person who is in possession and control of a vehicle whether or not such person is the registered owner of the vehicle. A person who is in possession of the ignition key to a vehicle, and who is also in possession of a valid driver's license, shall be deemed to be the "custodian" of such vehicle.

Decal-controlled parking area means a parking area in which parking is limited to vehicles on which a decal, sign, placard or similar authorization issued by the owner, lessee or agent of the parking area is conspicuously displayed.

Operator means any person operating a tow truck for a tow truck service.

Tow truck service means a person engaged in any business which provides the services of one (1) or more tow trucks for hire or use to tow, transport or move motor vehicles on or from public streets or on or from private property by way of public streets.

Tow truck service storage yard means any property, including the premises of any service station, upon which vehicles are stored that have been towed from privately owned lots or property at the request of the owner, lessee or agent of such lot or property and without the consent of the owner of the vehicle towed.

(Ord. No. 2903, 12-13-05)

Sec. 21-401. - Applicability of Division.

The provisions of this division shall apply only to tow services which tow vehicles on or from privately owned lots or property, at the request of the owner of such lot or property and without the consent of the owner of the vehicle towed.

(Ord. No. 2903, 12-13-05)

Sec. 21-402. - Violations of Division.

(a) It shall be unlawful for any person to violate or refuse, fail or neglect to comply with any of the provisions of this division. Each day that a continuing violation of the provisions of any section of this division occurs shall constitute a separate violation.

(b) Any person violating any provision of this division shall be guilty of a Class 1 misdemeanor.

(Ord. No. 2903, 12-13-05)

Sec. 21-403. - Signs required on property.

(a) Each owner of private property having parking facilities accessible to the public, and offering parking to its customers, clientele, residents, lessees or guests, who intends to enforce parking restrictions by the use of a tow truck service, shall post, at each point of ingress and egress to the parking area, clearly legible signs, visible and unobstructed day and night upon entering the parking area, that contains the following wording and sets forth the hours of enforcement:

PRIVATE PARKING

NAME OF BUSINESS

RESIDENTS/CUSTOMERS/CLIENTELE/

LESSEES/GUESTS ONLY

TOWING ENFORCED

HOURS OF ENFORCEMENT

Unauthorized cars towed at owner's expense: $_____ day or night. Call (telephone number of tow truck service) for location and information concerning return of car if towed. With respect to retail establishments, this sign shall also contain the wording "WHILE ON THE PREMISES" following the wording "CUSTOMERS ONLY." Finally, this sign or an accompanying sign shall indicate whether the parking area is decal-controlled and shall contain the name and telephone number of any contracted towing service.

(b) The signs required by this Section shall be at least thirty-six (36) inches in width and thirty (30) inches in height. Lettering for the capitalized words shall be at least three (3) inches in height and, for all other lines, at least one and one-half (1½) inches in height. The face of the sign shall be composed of engineering grade reflectorized sheeting or like material. The name of the business may be on a separate sign, but must be

adjacent to the primary sign containing the information required by this Section. The provisions of subsection (a) above shall be applicable to any parking area located on private property including parking areas of apartment houses, condominiums and nonprofit organizations.

(c) In addition to the provisions of subsections (a) and (b) above, if towing is enforced twenty-four (24) hours a day, the sign or signs required by this section shall include the wording "TOWING ENFORCED TWENTY-FOUR (OR 24) HOURS A DAY" in letters at least three (3) inches in height. In the alternative, an accompanying sign containing this wording in letters of the same height may be placed adjacent to each sign required by subsection (a) above.

(d) Vehicles may be towed from designated fire lanes approved by the fire department on private parking areas open to the public on which are posted signs as required by subsection (a) above, provided that such fire lanes are properly marked, including the posting of above grade signs stating FIRE LANE-TOWING ENFORCED.

(e) It shall be unlawful for any tow truck service or operator to tow or otherwise move a vehicle from any privately owned land or property within the City, unless such land or property is properly signed in accordance with this Section.

(f) An owner or operator of private property who enforces parking restrictions on the property by use of a tow truck service shall offer a copy of the survey and comment form developed by the Towing Advisory Board to anyone who contacts the owner, operator, or any employee or representative of the owner or operator, regarding a vehicle that has been towed or released after hookup from the owner's property.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06)

Sec. 21-403.1. - Written authorization required.

(a) No tow truck service or operator shall remove any trespassing vehicle from private property without first obtaining, at the time the vehicle is towed, specific written authorization of the owner of the property from which the vehicle is towed, or the owner's agent. Such written authorization shall identify the vehicle to be towed by make, model, and color and shall include the legibly printed name of the agent or owner, as well as the agent's or owner's signature. This written authorization shall be in addition to any written contract between the tow truck service and the owner of the property or his agent. For purposes of this subsection, "agent" shall not include any person who either (i) is related by blood or marriage to the towing and recovery operator or (ii) has a financial interest in the towing and recovery operator's business.

(b) Written authorization shall not be required if the owner or operator of the private property is a business and the business is closed at the time of the tow.

(c) This section shall not apply to residential parking lots, decks, garages, or spaces.

(Ord. No. 2954, 6-27-06)

Sec. 21-404. - Business license requirements; identification of tow trucks.

(a) No tow truck service or operator shall remove any vehicle from public or private property unless the tow truck service possesses a valid business license issued in accordance with Chapter 18 of this Code.

(b)

All tow trucks operated by a tow truck service shall display the name, address and telephone number of the owner thereof on both sides of the tow truck on permanently mounted signs or painted directly on the body of the truck in reflectorized letters large enough to be readily legible, but in no case less than two (2) inches in height. It shall be unlawful to operate a tow truck displaying an incorrect name or address, or a telephone number which is incorrect or not in service.

(Ord. No. 2903, 12-13-05)

Sec. 21-405. - Release of vehicle to owner or custodian prior to towing.

(a) If the owner or custodian of any vehicle not authorized to be parked in a private parking area returns after a tow truck service has arrived but before the vehicle has been towed from the private parking area, he may reclaim the vehicle whether or not it is fully hooked up to the tow truck, and it shall be unlawful for the tow truck service or operator to refuse to release the vehicle. However, if the vehicle has been hooked up, or is in the process of being hooked up, the tow truck operator may charge a drop fee not to exceed twenty-five dollars ($25.00) before releasing the vehicle or discontinuing the towing process. The process of hooking up shall be defined as (i) the removal and/or unreeling of any towing equipment from the tow truck after the truck is positioned to effect the tow, whether or not the equipment has been attached to the vehicle, or (ii) the lowering of a hydraulically-operated lift in preparation for loading the vehicle.

(b) If the owner or custodian is unable or refuses to pay the fee set forth in subsection (a) above, the vehicle may be towed and the tow truck service may charge its basic fee for the tow. Whenever a vehicle is towed under these circumstances, the tow truck operator shall permit the owner or custodian to remove personal items from the vehicle prior to the tow.

(c) No tow truck operator shall request payment of the fee set forth in subsection (a) above or tow any vehicle thereafter if the charge is not paid unless he shall first provide to the owner or custodian of the vehicle a copy of this section. The tow truck operator, upon receiving such payment, shall provide to the owner or custodian a legible receipt containing the name of the towing service, the date, time and place of vehicle release, and the name of the tow truck operator. A copy of the receipt shall be retained by the tow truck service for a period of one (1) year and shall be made available for inspection by City police or the Commissioner of the Revenue during the normal business hours of the tow truck service.

(d) Notwithstanding any provision of this Section to the contrary, if a police officer determines that a vehicle is needed as evidence in a criminal matter, or concludes that, based upon surrounding circumstances, the failure to release a vehicle is likely to result in a disturbance of the public peace and good order, such officer may order release of the vehicle without immediate payment by the owner or custodian thereof of the fee set forth in subsection (a) above; provided, however, that nothing herein shall preclude a tow truck service or operator from civilly pursuing payment of such fee at a later date from the owner or custodian of the vehicle, or from the owner, lessee or agent of the parking area.

(Ord. No. 2903, 12-13-05)

Sec. 21-406. - Emergency communications and citizen services to be notified of removal of vehicle.

(a) At the time of removal of any vehicle by a tow truck service operator, or no later than thirty (30) minutes thereafter, the tow truck service shall notify emergency communications and citizen services operations of such removal by calling 3-1-1 or 385-3111, and specifying the location of the storage yard to which the vehicle will be towed and the telephone number which the owner should call to reclaim the vehicle. Emergency communications and citizen services operations shall be given the license number and state of issuance of the license and, if known, the vehicle identification number and the make, model, and year of the vehicle towed or to be towed.

(b) If notified by emergency communications and citizen services operations or any law enforcement officer that the vehicle is subject to seizure by law enforcement authorities for evidentiary purposes, the tow truck operator or towing service shall forthwith relinquish the vehicle to such authorities and shall not be entitled to recover any costs or fees.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06; Ord. No. 3148, 8-10-10)

Sec. 21-407. - Charges for towing and storage of vehicle; receipt required.

(a) No tow truck service or operator operating within the city shall, at any time, charge a basic towing fee greater than the fees set forth below:

Gross vehicle weight rating (GVWR)	Maximum fee
10,000 pounds or less	$200.00
10,001 to 17,999 pounds	$350.00
18,000 pounds or more	$575.00

The basic fee shall be inclusive of any additional towing services such as the use of a dolly. This subsection shall apply only when a vehicle is moved or towed without the prior consent and agreement of the owner or custodian of the vehicle.

(b) No tow truck service or operator shall assess any charges for storage for the initial twenty-four (24) hours, nor charge more than sixty dollars ($60.00) per twenty-four-hour period thereafter, for any vehicle with a gross vehicle weight rating of ten thousand (10,000) pounds or less removed from private property without the consent of the owner or custodian of the vehicle, whether such tow originates in this city or any other jurisdiction. For vehicles with a gross vehicle weight rating between ten thousand one (10,001) and seventeen thousand nine hundred ninety-nine (17,999) pounds, a storage fee not to exceed seventy-five dollars ($75.00) per twenty-four-hour period may be assessed after the first twenty-four (24) hours. For vehicles with a gross

vehicle weight rating of eighteen thousand (18,000) pounds or more, a storage fee not to exceed one hundred dollars ($100.00) per twenty-four-hour period may be assessed after the first twenty-four (24) hours. Delays caused by storage yard personnel shall not be included when computing storage charges.

(c) If any vehicle is not redeemed within seventy-two (72) hours after it is towed, the tow truck service shall be entitled to recover an additional fee, not to exceed one hundred dollars ($100.00), as payment for the cost of any search conducted to determine the registered owner and lien holder, if any, of the vehicle.

(d) The Department of Budget and Management Services shall create a report to reflect changes in the U.S. City Consumer Price Index published by the United States Department of Labor every two years related to towing and storage fees using the CPI category "Transportation Services - Motor Vehicle Fees" as a proxy in such calculation. Such report shall be presented to the Towing Advisory Board with a copy sent to the City Council. The Towing Advisory Board shall periodically review and recommend timely adjustments to fee limitations. The City Council shall review fees related to towing every two years, taking into consideration the abovementioned report and the Towing Advisory Board's recommendation.

(e) No tow truck service or operator shall charge any fee for mileage, or any other fee in addition to the basic towing fee set forth in subsection (a) above, except a fee authorized by Code of Virginia § 46.2-1233.1(c). In order to ensure that no tow truck service or operator collects more than the fees authorized by this section, tow truck services and operators shall provide change for cash payments made by any person whose vehicle has been towed or released after hook up.

(f) A monetary receipt for each and every fee collected must be given to those persons whose vehicles have been towed by a tow truck service, or released after hook up, upon release of the vehicle. The information on the receipt must be clearly legible and include the time, date and place of the tow, the name of the tow truck operator who made the tow, and the name of the tow truck service for which said operator works. The receipt must also list the amount of money paid for the release of the vehicle, any additional charges incurred in the tow, and the reason for said additional charges. The following shall be printed conspicuously on every receipt: "NOTICE: Virginia Beach City Code § 21-407(f) requires the tow company to offer you a Survey and Comment Form with this receipt." A copy of the receipt must be retained by the tow truck service for a period of one (1) year and shall be made available for inspection by city police or the Commissioner of the Revenue during normal business hours of the tow truck service owner.

(g) A survey and comment form, developed by the towing advisory board, shall be offered to those persons whose vehicles have been towed by a tow truck service, or released after hookup, upon release of the vehicle.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06; Ord. No. 2949, 6-27-06; Ord. No. 2974, 4-10-07; Ord. No. 3212, 1-10-12; Ord. No. 3299, 7-9-13; Ord. No. 3752, 9-19-23)

Sec. 21-408. - Requirements for storage yard.

(a) At the storage yard of each tow truck service, there shall be a sign prominently displayed specifying tow and storage rates.

(b)

If an attendant is not on duty twenty-four (24) hours a day, seven (7) days a week, to return vehicles upon the payment of towing and storage charges, the sign provided for in subsection (a) hereof shall also contain a telephone number where the owner, manager or attendant of the tow truck service storage yard may be reached at any time so that a towed vehicle may be reclaimed by its owner in a minimum amount of time, not to exceed two (2) hours.

(c) Each tow truck service storage yard shall provide reasonable security and protection for all vehicles towed, whether such tow originates in this city or any other jurisdiction, including illumination of the storage area during hours of darkness, and including a fence enclosing the storage yard if an attendant or security guard is not on duty twenty-four (24) hours a day, seven (7) days a week.

(d) During the hours of darkness, the operator shall provide an area sufficiently illuminated to enable an owner to inspect a vehicle prior to removing it from the storage yard.

(e) It shall be unlawful to operate any tow truck service storage yard or to deposit, impound or store any towed vehicle therein, unless said yard is in full compliance with the sign, security and lighting requirements of this section and with all applicable zoning regulations, licensing requirements and use permits, established by this Code.

(Ord. No. 2903, 12-13-05)

Sec. 21-409. - Tow truck service operator's log.

Tow trucks service operators shall, within thirty (30) minutes of vehicle hook up, complete a record of the make, model, year and vehicle identification number, if known, of the vehicle, its license number and state of issuance, the time, date and place of removal, the name of the tow truck operator who made the tow and, for each entry of tow, the signature of the owner of the private lot, or his representative, requesting and authorizing the tow shall be required. A letter of authorization from the owner of the private lot or his representative, when carried in the tow truck making the tow, shall be sufficient to meet this latter requirement. Such record shall be retained by the tow truck service for not less than one (1) year, and shall be available for inspection by city police during normal business hours of the tow truck service owner, including any time that a vehicle is being impounded or reclaimed. Failure to keep and retain such a record, or omitting to make a true and complete entry for each vehicle towed, or failure to surrender such record to any police officer upon request shall be unlawful.

(Ord. No. 2903, 12-13-05)

Sec. 21-410. - Miscellaneous prohibited acts by tow truck service or operator.

Except when acting as an agent in the legal repossession of a vehicle, it shall be unlawful for any tow truck service or operator to:

(1) Tow or otherwise move a vehicle from any area or portion of a public street without either the consent of the owner or custodian of the vehicle or authorization from a police officer or other designated official of the city.

(2) Block the movement of or tow or otherwise move a vehicle from any private road, driveway or any other privately owned land or property within the city without the consent of the owner or custodian thereof, unless:

(i) The vehicle is parked in a designated parking space of a decal-controlled parking area and is not displaying a decal or other form of authorization issued by the owner, lessee or agent of such parking area;

(ii) The vehicle is parked in a designated parking space of a non-decal-controlled parking area during any period when the business(es) serviced by the parking is (are) open, and the tow truck operator obtains the written consent of the owner, lessee or agent of such parking area prior to towing the vehicle; or

(iii) The vehicle is parked in a non-decal-controlled parking area during any period when the business(es) serviced by the parking area is (are) closed, and towing is enforced twenty-four (24) hours a day by such business(es); or

(iv) The vehicle is parked on any portion of a parking area in such manner as to block ingress or egress to the parking area, or to block access to a dumpster or properly marked service or delivery area, or is otherwise parked in a portion of the parking area that is not specifically designated, by lines, curbs or similar markings, as an area for the parking of vehicles.

No vehicle shall be towed pursuant to subsections (i) (ii), (iii), or (iv) unless there is a written contract between the tow truck service and the owner, lessee or agent of the parking area to remove all unauthorized vehicles from the parking area, the tow truck operator has a copy of such contract in his or her possession, and the owner, lessee or agent has complied with all of the signage requirements set forth in Section 21-403.

(3) Tow or otherwise move a vehicle from any private road or driveway, or from any other privately owned land or property within the City to a place out of the City without the consent of the owner or custodian of the vehicle; provided that, after a period of not less than twenty-four (24) hours following the initial towing of a vehicle, as recorded in the police dispatcher's log, any such vehicle may be moved to a storage area located outside of the City, with prior notification to and approval of the police department. Notwithstanding the above, if a tow truck service or operator owns or leases a storage area located outside of the City, and such storage area is closer to the location from which a vehicle is towed than the closest in-city storage area owned or leased by the tow truck service or operator, such vehicle may be initially towed to the storage area located outside of the City, provided the tow truck service or operator is authorized to do business in both cities, charges a fee not greater than that fee authorized in Virginia Beach and invoices the tow in Virginia Beach.

(4) Block any vehicle, other than when on the property of the tow truck service, to prevent the movement thereof by its owner or custodian who has appeared prior to the vehicle being hooked up and desires to move the vehicle.

(5) Wait for employment by standing or parking on public property.

(6) Drive a tow truck or wrecker along any street to solicit towing.

(7) Tow or otherwise move a vehicle from any place in the city utilizing a wrecker or tow truck which is not insured as required by Section 18-55.1 of this Code.

(8) Provide false information to any police dispatcher concerning any vehicle towed.

(9)

Require the owner of any towed vehicle to wait for a period exceeding two (2) hours for release of a vehicle. Any delay over two (2) hours caused by failure to monitor or respond to calls placed to the operator's designated telephone number shall constitute a violation of this Section.

(10) Move any vehicle to any intermediate place of storage, or to any location other than to the registered secure storage yard of a tow truck service, unless specifically requested by the owner or custodian of said vehicle.

(11) During the initial twenty-four (24) hours after the vehicle is towed and upon request by any owner or custodian of a currently licensed vehicle, deny or prevent access to said vehicle for the purpose of removing personal items, whether or not the owner or custodian is then able to reclaim the vehicle. After the initial twenty-four (24) hours has expired and upon the request by any owner or custodian of a currently licensed vehicle, no tow truck service or operator shall refuse to allow such owner or custodian access to such vehicle once per day between the hours of 8:00 a.m. and 5:00 p.m.

(12) Assess or collect any charge or fee in excess of, or in addition to, the charges and fees authorized by this division.

(13) Fail to provide a monetary receipt, for each and every fee collected, containing the notice provision outlined in Section 21-407(e).

(14) Fail to make the survey and comment form developed by the Towing Advisory Board available when the vehicle is retrieved.

(Ord. No. 2903, 12-13-05; Ord. No. 2948, 6-27-06)

Secs. 21-411—21-499. - Reserved.

ARTICLE V. - VEHICLE SIZE, WEIGHT AND LOAD

Sec. 21-500. - Temporary reduction of weight limit.

(a) The City Manager may make, promulgate and enforce rules and regulations decreasing the weight limits prescribed in Sections 46.2-1122 through 46.2-1127 of the Code of Virginia, for a total period not to exceed ninety (90) days in any calendar year, when an engineering study discloses that operation of vehicles over highways or streets under the jurisdiction of the City, by reason of deterioration or rain, snow or other climatic conditions, will seriously damage such highways or streets unless such weights are reduced.

(b) In all instances where the limits for weight have been reduced by the City Manager pursuant to this Section, signs stating the weight permitted on such highway or street shall be erected at each end of the section of highway or street affected and no such reduced limits shall be effective until such signs have been posted.

(c) It shall be unlawful for any person to operate a vehicle or combination of vehicles over or upon any highway, street or section thereof when the weight exceeds the maximum posted by authority of the City manager pursuant to this Section.

(d)

Any person convicted of a violation of any provision of this Section shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00), or be confined in jail for not less than one day nor more than six (6) months, or both, and the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

(Ord. No. 2903, 12-13-05)

Sec. 21-501. - Special permits for oversize and overweight vehicles generally.

(a) The City Manager may, in his discretion, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle upon the highways of the City of a size or weight exceeding the maximum specified in this Article. Except as otherwise specifically provided, every such permit may designate the route to be traversed and contain any other requirements or conditions deemed necessary by the City Manager. For permits other than those specified in subsections (b), (c) and (d), the following processing fees shall be charged:

(1) Annual (blanket) permit $300.00

(2) Restricted equipment 75.00

(3) Single trip permit 75.00

(b) Special permits to operate or move a vehicle upon the highways of the City of a weight exceeding the maximum specified in this Article shall be granted without cost where the vehicle is hauling or carrying containerized cargo in a sealed, seagoing container bound to or from a Virginia seaport and has been or will be transported by marine shipment, provided the single axle weight does not exceed twenty thousand (20,000) pounds, the tandem axle weight does not exceed thirty-four thousand (34,000) pounds and the gross weight does not exceed eighty thousand (80,000) pounds, and provided the contents of such seagoing container are not changed from the time it is loaded by the consignor or his agents to the time it is delivered to the consignee or his agents. Cargo moving in vehicles conforming to specifications shown in this subsection but exceeding axle and gross weight limitations shown in this subsection shall be considered irreducible and eligible for permits under regulations of the State Highway and Transportation Commission. The requirement of this paragraph that the container be bound to or from a Virginia seaport need not be met if the cargo in the container (i) is destined for a seaport outside Virginia and (ii) consists wholly of farm products grown in that part of Virginia separated from the larger part of the Commonwealth by the Chesapeake Bay.

(c) The City Manager upon application in writing made by the owner or operator of three-axle vehicles used exclusively for the mixing of concrete in transit or at a project site or for transporting necessary components in a compartmentalized vehicle to produce concrete immediately upon arrival at the project site, and having a gross weight not exceeding sixty thousand (60,000) pounds, a single axle weight not exceeding twenty thousand (20,000) pounds, and a tandem axle weight not exceeding forty thousand (40,000) pounds, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicles upon the highways of the City. No such permit shall be issued authorizing the operation of the vehicles

enumerated in this subsection for a distance of more than twenty-five (25) miles from a batching plant; however, the said permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.

(d) The City Manager, upon application in writing made by the owner or operator of three-axle passenger buses, consisting of two (2) sections joined together by an articulated joint with the trailer being equipped with a mechanically steered rear axle, and having a gross weight not exceeding sixty thousand (60,000) pounds, a single axle weight not exceeding twenty-five thousand (25,000) pounds and a width not to exceed one hundred two (102) inches, shall issue to such owner or operator, without cost, a permit in writing authorizing the operation of such vehicles upon the highways.

(e) No permit issued under this Section providing for a single axle weight in excess of twenty thousand (20,000) pounds or for a tandem axle weight in excess of thirty-four thousand (34,000) pounds shall be issued to include travel on the federal interstate system of highways.

(f) Each vehicle, when loaded according to the provisions of a permit issued under this Section, shall be operated at a reduced speed. The reduced speed limit shall be ten (10) miles per hour slower than the legal limit in fifty-five (55), forty-five (45) and thirty-five (35) miles per hour speed limit zones.

(g) Every permit issued under this Section shall be carried in the vehicle to which it refers and shall be open to inspection by any officer and it shall be a misdemeanor for any person to violate any of the terms or conditions of such special permit.

(h) Technology fee. In addition to any fees otherwise required by this chapter, there shall be a fee in the amount of ten dollars ($10.00) for permits issued pursuant to section 33-51. Such feel shall be for the following purposes:

(1) To improve community access to general information about cases, applications, permits and inspections by providing online, user-friendly search and viewing tools;

(2) To facilitate communications with property owners, consultants and contractors through use of on-line checklist and activity tracking that automatically emails notifications and updates regarding permit status and other information not previously available on-line;

(3) To increase transparency and accountability in business operations by providing users the ability to track all transactions online;

(4) To enhance performance and revenue reporting by providing the ability to produce ad hoc reports on demand; and

(5) To improve the expand electronic document storage, management and retrieval by including scanned images as part of the on-line permit record.

(Ord. No. 2903, 12-13-05; Ord. No. 3697, 5-10-22)

Sec. 21-502. - Penalty for violation of weight limits.

Any person violating any weight limits as provided in this Chapter or any permit issued by either the Department of Transportation or by the City pursuant to this Article shall be subject to a civil penalty of twenty-five dollars ($25.00) and a processing fee of twenty dollars ($20.00) in addition to any liquidated damages and weighing fees imposed by this

Article. Upon collection by the Department or by the court, the civil penalty shall be forwarded to the City Treasurer, to be allocated to the fund appropriated for the construction and maintenance of City highways; and the processing fee shall be paid to the state treasury to be used to meet the expenses of the Department of Motor Vehicles.

The penalties, damages and fees specified in this Article shall be in addition to any other liability which may be legally fixed against the owner, operator or other person charged with the weight violation for damage to a highway or bridge attributable to such weight violation.

(Ord. No. 2903, 12-13-05)

Sec. 21-503. - Reduction of noise from loads.

No vehicle shall be loaded with materials likely to create loud noises by striking together, without using every reasonable effort to deaden the noise.

(Ord. No. 2903, 12-13-05)

Secs. 21-504—21-599. - Reserved.

ARTICLE VI. - HIGHWAY MEDIANS

Sec. 21-600. - Highway medians; exemptions; penalty.

(a) No person or vehicle shall occupy a highway median.

(b) For the purpose of this section, "highway median" shall be that paved or landscaped strip of ground dividing a highway into lanes according to direction of travel.

(c) This section shall not apply:

(1) To a pedestrian traversing a median while in the immediate process of crossing the highway;

(2) To any governmental employee or authorized agent while in the performance of official duties;

(3) At any time the adjacent highway is closed to traffic;

(4) To governmental vehicles operated in the course of official business;

(5) To utility employees or vehicles when necessary for utility installation, maintenance or repair; and

(6) In the event of a mechanical breakdown, or an emergency requiring a public safety response.

(d) A violation of this section shall constitute a class II misdemeanor.

(Ord. No. 3098, 8-11-09)

Secs. 21-601—21-699. - Reserved.

ARTICLE VII. - VEHICLE DEMOLISHERS, REBUILDERS, SALVAGE DEALERS, ETC.

Sec. 21-700. - Daily reports to police department.

All persons engaged in a business requiring a license under the provisions of 46.2-1601 of the Code of Virginia shall make a daily electronic report to the police department regarding the purchase, exchange or acquisition of all salvage or scrap vehicles.

(Ord. No. 3162, 3-22-11)

Sec. 21-701. - Contents of daily reports; reporting time.

(a) Each daily electronic report shall contain the information mandated for maintenance under the provisions of 46.2-1608 of the Code of Virginia.

(b) Each daily electronic report shall be submitted to the police department no later than 10:00 a.m. on the day after the vehicle purchase. Electronic reports submitted from out-of-state shall be submitted no later than 10:00 a.m. in the time zone from which the report is submitted.

(Ord. No. 3162, 3-22-11; Ord. No. 3196, 8-23-11)

Sec. 21-702. - Holding period.

No person required to be licensed under the provisions of 46.2-1601 of the Code of Virginia, or his employee or agent shall crush, flatten, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle until the vehicle has been in his possession for ten (10) days unless otherwise exempted under Chapter 16 of Title 46.2 of the Code of Virginia.

(Ord. No. 3162, 3-22-11)

Sec. 21-703. - Penalty.

Any violation of this article shall be punishable by a fine of two thousand five hundred dollars ($2,500.00).

(Ord. No. 3162, 3-22-11)