

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 2ND DAY OF DECEMBER NINETEEN HUNDRED EIGHTY-FIVE AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
 Thomas D. Mahone, Vice-Chairman, Jamestown District
 Stewart U. Taylor, Stonehouse District
 William F. Brown, Roberts District
 Perry M. DePue, Powhatan District

James B. Oliver, Jr., County Administrator
 Darlene L. Burcham, Assistant County Administrator
 Frank M. Morton, III, County Attorney

B. MINUTES - November 18, 1985 - Regular Meeting

Mr. DePue made a motion to approve the minutes as presented.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone,
 Taylor (5).

C. PUBLIC HEARINGS

1. Case No. SUP-26-85. Williamsburg/Jamestown Airport

The Planning Commission recommends approval of the application subject to four conditions.

Mr. Edwards opened the public hearing.

1. Mr. Alvin P. Anderson, attorney representing the applicant, spoke in favor of the application. Mr. Anderson summarized the history of the airport. Mr. Anderson pointed out the benefits of the proposed improvements and how the airport was beneficial to the County. Mr. Anderson requested Board approval of the application.
2. Mr. Richard W. Coakley, 110 Redbud Lane, introduced the following five public speakers.
3. Mr. Patrick McSweeney, attorney representing the Jamestown Civic Association, spoke in opposition to the application. Mr. McSweeney stated the airport was a non-conforming use and that the State Corporation Commission approved the original permit under the proviso there would be no safety problems. Mr. McSweeney stated safety problems existed then and do now and with the expansion of the airport, more adverse factors would occur with that expansion.
4. Mr. Michael Faia, 113 Dogwood Drive, spoke in opposition to the application. Mr. Faia stated that he felt it was inevitable that a plane would fail while flying over Rawls Byrd School and that his main concern was that if the Board were to approve the application, the Board would be officially endorsing the airport.
5. Mr. Yancey McGann, 214 Kingswood Drive, spoke in opposition to the application. Mr. McGann stated he was concerned that the airport is classified as an uncontrolled airport, which he felt degraded the quality of life and safety around it.
6. Mrs. Barbara McLane, 116 Dogwood Drive, spoke in opposition to the application. Mrs. McLane stated concerns she had with the safety of the airport and encouraged the Board to deny the application.

7. Mr. Neill Watson, 117 Chestnut Drive, spoke in opposition to the application. Mr. Watson informed the Board that 177 parents and teachers from Rawls Byrd School opposing the application had signed a petition.

Mr. Richard W. Coakley, 110 Redbud Lane, read a letter from General Dean, representative for Williamsburg Landing, opposing the airport improvements to the Board. Mr. Coakley presented the Board with petitions opposing the proposed improvements to the airport from Williamsburg-Landing, Rawls Byrd School, James City County residents and Williamsburg-Landing, and a petition from other concerned area residents who are affected by the airport.

8. Mr. Ray Tyson, 120 Snead Street, Ashland, Virginia, spoke in favor of the application. Mr. Tyson stated the safety factor of the airport had been blown out of proportion and encouraged Board approval of the application.

9. Mr. John Dayton, 220 Southpoint Drive, spoke in opposition to the application. Mr. Dayton stated the airport was not in a good location and suggested the applicant be assisted in acquiring other land where the airport would be in an appropriate location.

10. Mr. George S. Genakos, 113 Mimosa Drive, President of the Homeowners Association of Williamsburg, spoke in opposition to the airport. Mr. Genakos stated he felt the proposed improvements would increase danger to children, residents, and Colonial structures.

11. Mr. Stephen Roberts, Christopher Wren, spoke in favor of the application. Mr. Roberts stated James City County and the City of Williamsburg had outgrown the present facilities of the airport and the proposed improvements would enhance the airport to users.

12. Mr. G. T. Diggs, Jr., 133 Longhill Road, Duke Communications, spoke in favor of the application. Mr. Diggs stated the proposed improvements to the airport would benefit the County and the community.

13. Mr. Ken Smith, Chairman of the Williamsburg-James City County School Board, stated the School Board's position is that the Board of Supervisors give careful consideration to possible safety hazards to Rawls Byrd School and that the Board of Supervisors use any resources needed to make that decision.

14. Mr. William E. Savedge, Route 1, Box 30, Surry, Virginia, representative of the Air National Farmers Association, spoke in favor of the application.

15. Mr. Keith Bumsted, 102 Charles River Landing Road, of the National Center for State Courts, spoke in favor of the application. Mr. Bumsted stated he felt the proposed improvements would increase the safety of the airport.

16. Mr. Malcolm J. Roebuck, 102 Maid Marion Place, spoke in favor of the application. Mr. Roebuck stated that because of the presence of the airport, part of his business transferred to Williamsburg.

17. Ms. Barbara Ramsey, 408 Griffin Ave, Member of 99's (Organization of Women Pilots), spoke in favor of the application. Ms. Ramsey stated she uses the airport because of its location and also stated she felt the proposed improvements would increase safety.

18. Mr. Richard Pugliese, 122 Druid Drive, spoke in opposition to the application. Mr. Pugliese stated the proposed improvements would encourage more planes into the area, which would increase the number of unsafe planes in the area.

19. Mr. Edward Scott, 421 Aviation Way, Frederick, Maryland, member of Aircraft Owners and Pilots Association, spoke in favor of the application. Mr. Scott stated he felt the proposed improvements would increase safety.

20. Mrs. Sharon Bledsoe, 162 Ruth Lane, spoke in opposition to the application. Mrs. Bledsoe stated her concerns with the number of small aircraft flying over the Centerville area and further stated that if the proposed improvements were granted, the number of aircraft in the area would increase, which would decrease safety.

Mr. Edwards closed the public hearing.

Mr. DePue presented his pros and cons on the proposed improvements to the airport and stated the Board must be more concerned with the safety and welfare of county citizens than with pilots. Mr. DePue stated he would be in favor of granting improvements to the airport which would not encourage more aircraft.

Mr. Mahone stated he supports the airport because it is a reliable airport that James City County does not have to fund to operate. Mr. Mahone further stated the proposed improvements to the airport would help the community.

Mr. Taylor stated he felt the proposed improvements would upgrade safety. Mr. Taylor further stated that no matter what, more people and planes will come to Williamsburg.

Mr. Brown stated he felt the location of the airport was not the best and that he had questions as to the future of the airport and whether the County should endorse the airport. Mr. Brown further stated that if the applicant does not use the land for an airport, worse uses could be proposed.

Mr. Edwards stated the applicant needed to recognize that residents are genuinely concerned about safety, and residents need to accept the airport. Mr. Edwards further stated that a compromise would be in the best interest for all.

Mr. Edwards made a motion to defer action on the matter.

On a roll call, the vote was AYE: Brown, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

The Board recessed at 10:05 p.m. and reconvened at 10:20 p.m.

2. Case No. Z-22-85. Henry & Lavelle Branscome

The Planning Commission recommends approval of the request with proffers.

Mrs. Victoria Gussman stated a letter had been received from Mrs. Margaret Taylor who expressed concerns about this application.

Mr. Edwards opened the public hearing.

1. Mr. Steven H. Oliver, Williamsburg, representative for the applicant, spoke in favor of the request.

Mr. Edwards closed the public hearing.

Mr. Taylor made a motion to approve the request for rezoning.

Mr. Mahone stated he was concerned with the lack of screening in areas by the highway.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Of Approval - Zoning Case
No. Z-22-85. Henry S. & Lavelle M. Branscome

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-22-85 for rezoning approximately 1.14 acres from A-2, Limited Agricultural to M-1, Limited Industrial on property identified as parcel (1-45) on James City County Real Estate Tax Map No. (47-1), and;

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on October 22,

1985 unanimously recommended approval of Zoning Case No. Z-22-85 with proffered conditions, and;

WHEREAS, Zoning Case No. Z-22-85, with proffered conditions, is in accord with the adopted Comprehensive Plan of James City County.

THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve Zoning Case No. Z-22-85 and accepts the voluntary proffer submitted with this application signed by the property owners.

3. Case No. Z-23-85. Claude M. Jones

The Planning Commission recommends approval of the request.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Brown made a motion to approve the request.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Of Approval - Zoning Case
No. Z-23-85. Claude M. Jones, Jr.

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-23-85 for rezoning 1.85 acres from A-2, Limited Agricultural to B-1, General Business on property identified as parcels (1-22B) and (1-22A) on James City County Real Estate Tax Map No. (47-1), and;

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on October 22, 1985 unanimously recommended approval of Zoning Case No. Z-23-85, and;

WHEREAS, Zoning Case No. Z-23-85 is in accord with the adopted Comprehensive Plan of James City County.

THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve Zoning Case No. Z-23-85 as described herein.

4. Case No. Z-25-85. Zoning Ordinance Amendment

The Planning Commission recommends approval of the amendment.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Brown made a motion to approve the amendment.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

5. Telephone Tax to Finance Enhanced 911

Staff recommends adoption of the tax.

Mr. Edwards opened the public hearing.

1. Mr. Bill Apperson, James City County Bruton Volunteer Fire Department, encouraged Board approval of the tax.

2. Mr. Carlyle Ford, 319 Farmville Lane, stated the Enhanced 911 service would be beneficial to citizens, especially to handicapped citizens, and encouraged Board approval of the tax.

Mr. Edwards closed the public hearing.

Mr. DePue made a motion to approve the tax.

Mr. Mahone stated the Board had decided not to consider a financing option for emergency telephone service previously, and stated he would not support the tax.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Taylor (4). NAY: Mahone (1). The motion passed by a 4-1 vote.

Mr. Edwards stated the remaining public hearings were Ordinance Amendments to the Code of James City County and asked the Board if it would be willing to combine the public hearings.

Mr. Mahone withdrew #C-12 and #C-18.

Mr. Taylor withdrew #C-15.

Mr. Edwards opened the public hearings on the remaining Ordinance Amendments, and as no one wished to speak, he closed the public hearings.

Mr. Edwards made a motion to approve those Ordinance Amendments.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

6. Ordinance Amendment, Chapter 3, Animals and Fowl, of the Code of James City County
7. Ordinance Amendment, Chapter 4-86.1, Cable Communications, of the Code of James City County
8. Ordinance Amendment, Chapter 5, Bingo and Raffles, of the Code of James City County
9. Ordinance Amendment, Chapter 5A, Erosion and Sedimentation, of the Code of James City County
10. Ordinance Amendment, Chapter 6A, Smoke Detectors, of the Code of James City County
11. Ordinance Amendment, Chapter 8, Health and Sanitation, of the Code of James City County
13. Ordinance Amendment, Repeal of Section 9-91, Tobacco Retailers, of the Code of James City County
14. Ordinance Amendment, Repeal of Chapter 10, Mobile Home Parks, of the Code of James City County
16. Ordinance Amendment, Chapter 11, Motor Vehicles and Traffic, of the Code of James City County, Section 11-54
17. Ordinance Amendment, Chapter 12, Outdoor Gatherings, of the Code of James City County
19. Ordinance Amendment, Repeal of Chapter 15, Riots, Unlawful Assemblies and Related Offenses, of the Code of James City County
20. Ordinance Amendment, Chapter 18, Taxation, of the Code of James City County
21. Ordinance Amendment, Chapter 19A, Wetlands, of the Code of James City County

12. Ordinance Amendment, Chapter 9, Licenses, of the Code of James City County

Mr. Mahone made a motion to amend Chapter 9-28(9)(a)(iv) to \$100 and not \$500.

On a roll call, the vote was AYE: Mahone, Taylor (2). NAY: Brown, Edwards, DePue (3). The motion failed by a 2-3 vote.

Mr. Edwards made a motion to approve the amendment as written.

On a roll call, the vote was AYE: Brown, Edwards, DePue (3). NAY: Mahone, Taylor (2). The motion passed by a 3-2 vote.

15. Ordinance Amendment, Chapter 11, Motor Vehicles and Traffic, of the Code of James City County

Mr. Taylor made a motion to amend Chapter 11-46, the first sentence in paragraphs 1 and 2, to add "A-2" after agricultural.

Mr. DePue stated A-1 zoning needed as much protection as A-2 zoning and stated he would not support the motion.

On a roll call, the vote was AYE: Brown, Mahone, Taylor (3). NAY: Edwards, DePue (2). The motion passed by a 3-2 vote.

Mr. Brown made a motion to approve the amended Ordinance.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

18. Ordinance Amendment, Chapter 13, Offenses, of the Code of James City County

Mr. Mahone requested the Board consider adding "or police department" to Chapter 13-17(c).

Mr. Edwards made a motion to approve the Ordinance with the requested amendment.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

D. **CONSENT CALENDAR - None**

E. **BOARD CONSIDERATIONS**

1. Installation and Replacement of Streetlights

Staff recommends approval of the resolution.

Mr. Mahone made a motion to approve the resolution.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Installation of Streetlights

WHEREAS, a petition has been filed for the installation of additional streetlights and the replacement of outdated incandescent streetlights in the Kingswood area; and

WHEREAS, streetlighting plans and cost estimates have been prepared by the Virginia Power Company and reviewed by the County Department of Public Works; and

WHEREAS, funds are available in the FY 1985-86 budget for the installation and annual rental charges.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves the installation of four additional streetlights and the replacement of sixteen incandescent streetlights in the Kingswood area with mercury vapor lights as shown on the attached plans.

2. Proposed 1986 Legislative Program

Staff recommends approval of the resolutions.

Mr. DePue made a motion to approve the first three resolutions.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Introduction of Parking Violation Enforcement Authority Bill

WHEREAS, the goal of James City County is to provide for the health, safety, and welfare of its citizens; and

WHEREAS, legislation enacted by both the state and local government can facilitate the obtainment of this goal.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that the Board respectfully requests the honorable members representing James City County in the General Assembly to use their good offices to introduce legislation giving James City County the authority to exercise joint enforcement powers with the State for the purpose of regulating parking on State secondary highways within the County.

FURTHERMORE, BE IT RESOLVED that a copy of this resolution shall be forwarded to each member of the General Assembly representing James City County.

RESOLUTION

- Introduction of Borrowing Authority In Anticipation Of Literary Fund Proceeds Bill

WHEREAS, the Board of Supervisors of James City County has adopted as part of its 1986 Legislative Program a request for support of authority for counties to borrow from commercial lenders without referendum approval, in anticipation of the receipt of proceeds from the Literary Fund; and

WHEREAS, the County cannot borrow in anticipation of these funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia respectfully request the honorable members representing James City County in the General Assembly to use their good offices to introduce legislation amending Section 15.1-545.1 of the State Code to allow counties to borrow in anticipation of receipt of Literary Fund loan proceeds.

FURTHERMORE, BE IT RESOLVED that a copy of this resolution shall be forwarded to each member of the General Assembly representing James City County.

RESOLUTION

Request for Transfer of Land From Commonwealth of Virginia to James City County

WHEREAS, the goal of James City County is to provide for the health, safety, and welfare of its citizens; and

WHEREAS, legislation enacted by both the state and local government can facilitate the obtainment of this goal.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that the Board respectfully requests the honorable members representing James City County in the General Assembly to use their good offices to introduce legislation to transfer 1.6 acres of land, now part of Eastern State Hospital, to James City County for use as a community center facility.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to each member of the General Assembly representing James City County.

It was the consensus of the Board to defer action on the remaining legislative program until the next meeting.

F. PUBLIC AUDIENCE - None

G. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Oliver reminded the Board that the Dedication Ceremony for the Human Services Building would be held on December 11, 1985 at 6:30 p.m. with Governor Robb in attendance.

Mr. Oliver reported the County Christmas Tree Lighting would be held on December 16, 1985 at 4:30 p.m., following the Board meeting, at the County Government Complex.

Mr. Oliver requested the Board recess until December 16, 1985 at 1:00 p.m. for the annual Presentation of Financial Trends by John McDonald.

H. BOARD REQUESTS AND DIRECTIVES

Mr. Brown complimented the Police Department for the reclassification of the Crime Prevention/Training Coordinator Position.

Mr. Mahone made a motion to appoint Mrs. Carolyn Lowe to the Wetlands Board for a five-year term.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

Mr. Edwards made a motion to recess until December 16, 1985 at 1:00 p.m.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

The Board recessed at 11:10 p.m.


James B. Oliver, Jr.
Clerk to the Board

/jw
BOS 14

ORDINANCE NO. 7A-9

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMALS AND FOWL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 3-2. DISPOSITION OF CARCASSES; SECTION 3-4. DOG TAGS; SECTION 3-4.1. DUPLICATE LICENSE TAGS; SECTION 3-10. IMPOUNDMENT AND REDEMPTION OF DOGS NOT WEARING TAGS; AND SECTION 3-21. CONFINEMENT OR DESTRUCTION OF DOGS OR CATS SHOWING SIGNS OF, OR SUSPECTED OF HAVING, RABIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animals and Fowl, is hereby amended and reordained by amending Section 3-2. Disposition of carcasses; Section 3-4. Dog tags; Section 3-4.1. Duplicate license tags; Section 3-10. Impoundment and redemption of dogs not wearing tags; and Section 3-21. Confinement or destruction of dogs or cats showing signs of, or suspected of having, rabies.

Chapter 3. Animals and Fowl

Article I. In General

Section 3-2. Disposition of carcasses.

(a) The owner of any animal or fowl which has died from any cause shall forthwith cremate or bury the carcass thereof in a lawful and sanitary manner. If he fails to do so within twenty-four (24) hours after notice by the sheriff, dog warden or other county officer, the county shall have such carcass so disposed of by its own agents or employees, in which event the expenses therefor shall be chargeable to and paid by the owner of such carcass and may be collected as taxes and levies are collected.

(b) As used in this section, the word "owner" shall include any person having a right of property in an animal or fowl, and any person who keeps or harbors an animal or fowl or who has it in his care, or who acts as its custodian, and a person who permits an animal or fowl on or about any premises occupied by him.

State law references--Authority of board of supervisors to enact this section, Code of Va., Section 15.1-11(1); additional state law as to disposition of animal and fowl carcasses, Code of Va., Section 18.2-510; additional state law as to disposition of dog carcasses, Code of Va., Section 29-213.90, similar state laws definition of "owner" as applied to dogs, Code of Va., Section 29-213.36.

Section 3-4. Dog tags.

Any person may obtain a dog license by making oral or written application to the treasurer of the county, or his designee, accompanied by the amount of license tax and certificate of vaccination as required by this chapter. The treasurer, or his designee, shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of this county and may require information to this effect from any applicant. Upon receipt of proper application and certificate of vaccination as required by this chapter, the treasurer, or his designee, shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed female, female or kennel, and deliver the metal license tags or plates provided for herein. Such tags shall be stamped or otherwise permanently marked to show the name of the county, the sex of the dog, the calendar year for which issued and bear a serial number.

The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. All unsold tags shall be recorded and the unissued tags destroyed by the treasurer at the end of the dog tax year. (8-10-64, Section 1; Ord. No. 7A-6, 8-10-81)

Section 3-4.1. Duplicate license tags.

If a dog license should become lost, destroyed or stolen, the owner or custodian shall at once apply to the county treasurer, or his designee, for a duplicate license tag; presenting the original license receipt. Upon affidavit of the owner or custodian before the county treasurer, or his designee, that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag which shall be immediately affixed to the collar of the dog by its owner or custodian. The treasurer, or his designee, shall endorse the number of the duplicate license tag and the date of issuance on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar. (Ord. No. 7A-6, 8-10-81)

Section 3-10. Impoundment and redemption of dogs not wearing tags.

The dog warden and other officials appointed under the provisions of this article are hereby required to impound any dog not wearing a collar with a current dog license tag securely attached thereto as prescribed by Section 3-6 or any dog in violation of Section 3-7. Such dogs shall be impounded in a dog pound designated by the board of supervisors for a period of five (5) days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner thereof. During this five-day period, the dog may be returned to its owner or custodian, upon proof of ownership, purchase of dog tag and display of certificate of vaccination. A charge of four dollars (\$4.00) per day for boarding the dog shall be paid by the owner to the treasurer before the dog may be released. If the rightful owner of any dog confined may be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the dog of the dog's confinement within forty-eight hours next following its confinement. (8-10-64, Section 5; Ord. No. 7A-6, 8-10-81; Ord. No. 7A-8, 11-19-84)

Section 3-21. Confinement or destruction of dogs or cats showing signs of, or suspected of having, rabies.

Dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods prescribed or approved by the state veterinarian, as provided in Virginia Code Section 29-213.66. Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies. (Ord. No. 7A-8, 11-19-84)

ADOPTED

ORDINANCE NO. 141A-5

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4-86.1, CABLE COMMUNICATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE III, GRANT OF AUTHORITY, SECTION 4-86.1.5(a), FRANCHISE APPLICATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4-86.1, Cable Communications, is hereby amended and reordained by amending Section 4-86.1.5(a), Franchise applications.

Chapter 4-86.1. Cable Communications

Article III. Grant of Authority

Section 4-86.1.5. Franchise applications.

(a) After receiving applications for a franchise, the board, after considering the legal, financial, technical and character qualifications of the applicants, may, by franchise certificate, grant a nonexclusive franchise creating a right to construct and operate a cable communications system within the county. A franchise will be granted to the applicant which in the board's judgment may best serve the public interest, and whose construction and financial plans and arrangements are both feasible and adequate to fulfill the conditions set forth in this chapter and incorporated into a franchise certificate awarded to the grantee. However, no provision of this chapter shall be deemed or construed as to require the Board to grant a franchise. The board may award additional licenses, franchises or certificates of public convenience as it deems appropriate, if the board finds that the public welfare will be enhanced by such awards after a public hearing at which testimony is heard concerning the economic consideration, the impact on private property rights, the impact on public convenience, the public need and potential benefit, and such other factors as are relevant.

ADOPTED

ORDINANCE NO. 133A-2

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5, BINGO AND RAFFLES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 5-4, ISSUANCE OF PERMIT; REQUIREMENTS, DURATION, WAIVER, WHERE VALID; AND SECTION 5-7, REPORTS OF GROSS RECEIPTS AND DISBURSEMENTS REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5, Bingo and Raffles, is hereby amended and reordained by amending Section 5-4, Issuance of permit; requirements, duration, waiver, where valid; and Section 5-7, Reports of gross receipts and disbursements required.

Chapter 5. Bingo and Raffles

Section 5-4. Issuance of permit; requirements, duration, waiver, where valid.

(1) Prior to the issuance of any permit, an organization must meet the following requirements:

- (a) Except for recently established volunteer fire and rescue companies or departments, as defined in this article, after county approval, such organization shall have been in existence and met on a regular basis in the county where application is made for a period of at least two years immediately prior to making application for such permit. However, this requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or a national or international civic organization which is exempt under Section 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a bingo permit issued under the provisions of this article anywhere within this Commonwealth, or (ii) to booster clubs which have been operating for less than two years, and which have been established solely to raise funds for school-sponsored activities in public schools which are less than two years old.
- (b) Such organization shall be operated currently and shall have been operated in the past as a nonprofit organization and shall have been in existence as such nonprofit organization for a period of at least two (2) years immediately prior to seeking a permit as hereinafter provided.
- (c) Any organization whose gross receipts from all bingo operations exceed or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to Section 501 C of the United States Internal Revenue Code.

- (2) All permits shall have the following requirements:
- (a) A permit shall be valid only in the county and only at such locations as are designated in the permit application. However, a permit may be issued to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another and complies with the requirements of subsection (a) of this section and provided further that such organization was the holder of a valid permit at the time of such relocation. An organization which has a permit under this article to conduct a raffle may sell such raffle tickets both in and out of the jurisdiction issuing such permit.
 - (b) All permits shall be issued on a calendar basis and unless otherwise provided shall be valid for one calendar year beginning on January 1.
 - (c) All applications for such permit shall be acted upon by the county administrator within sixty (60) days from the filing thereof.

(3) Upon compliance by the applicant with the provisions of this chapter the county administrator may issue an annual permit. All permits shall be subject to reasonable regulation by the county to ensure the public safety and welfare in the operation of bingo games and raffles. (Ord. No. 133, 9-10-79)

Section 5-7. Reports of gross receipts and disbursements required.

Complete records of all receipts and disbursements shall be kept and shall be filed annually under oath with the county attorney's office. All annual or quarterly financial reports and other items required to be filed under this section shall be a matter of public record. All such accountings shall be made on or before the first day of November of each calendar year for which a permit has been issued. Such accounting shall include a record of the gross receipts and disbursements of an organization for the year period which commenced on the first day of October of the previous year. Provided, however, any organization whose gross receipts exceed fifty thousand dollars (\$50,000.00) during any calendar quarter shall be required to file an additional accounting of its receipts and disbursements during such quarter no later than sixty (60) days following the last day of such quarter. "Gross receipts," as used in this section, shall mean the total amount of money received from bingo and "instant bingo" operations before the deduction of expenses or prizes.

All such reports and receipts and disbursements shall be made on a form provided by the county attorney's office and acknowledged in the presence of a duly authorized notary public. The failure to file such reports when due shall cause the automatic revocation of the permit and no such organization shall conduct any bingo game or raffle thereafter until such report is properly filed and a new permit is obtained.

Such financial report shall be accompanied by a certificate, verified under oath, by the board of directors that the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and that the operation of bingo games or raffles has been in accordance with the provisions of Chapter 5.

Notwithstanding the provisions of this chapter requiring an annual audit, the provisions of this section shall not be construed so as to prohibit the county administrator or his designee from performing unannounced audits or restrict any right to secure records required to be maintained by the provisions of this chapter. The county administrator or his designee shall

have the authority to go upon the premises on which any organization is conducting a bingo game for the purpose of carrying out the duties imposed by this chapter. The application for the bingo permit shall constitute permission from, and authority granted by, such organization to any law enforcement officer to enter upon such premises.

The organization shall maintain a record in writing for three years of the dates on which bingo is played, the number of people in attendance on each date and the amount of the receipts and prizes paid on each such day. The organization shall also maintain a record of the name and address of each individual to whom a door prize, regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of such award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games. (Ord. No. 133, 9-10-79; Ord. No. 133A-1, 9-13-82)

ORDINANCE NO. 85A-4.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5A, EROSION AND SEDIMENTATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 5A-3, DEFINITIONS; SECTION 5A-4, NONCONTROLLED ACTIVITIES; SECTION 5A-5, PROCEDURES FOR PLAN SUBMISSION AND REVIEW, INSPECTION AND ENFORCEMENT; SECTION 5A-7, ACTION ON PLANS; AND SECTION 5A-11, PENALTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5A, Erosion and Sedimentation, is hereby amended and reordained by amending Section 5A-3, Definitions; Section 5A-4, Noncontrolled activities; Section 5A-5, Procedures for plan submission and review, inspection and enforcement; Section 5A-7, Action on plans; and Section 5A-11, Penalty.

Chapter 5A. Erosion and Sedimentation

Section 5A-3. Definitions.

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

Administrator. The official designated by the governing body to serve as its agent to administer this chapter.

Clearing. Any activity which removes the vegetative ground cover including but not limited to the removal of root mat and-or topsoil.

District or soil and water conservation district. A governmental subdivision of the state organized in accordance with the provisions of the Soil Conservation Districts Law, Title 21, chapter 1, Code of Virginia, 1950, as amended.

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

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Governing body. The board of supervisors of the county.

Grading. Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land disturbing activity. Any land change which may result in soil erosion from water and-or wind and the movement of sediments into waters or into lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

Land disturbing permit. A permit issued by the county for clearing, filling, excavating, grading or transporting, or any combination thereof.

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

Plan approving authority. The department of public works.

Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials, to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. (3-10-75)

Section 5A-4. Noncontrolled activities.

In no instance shall the provisions of this chapter be construed to apply to the following:

- (a) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
- (b) Individual service connections;
- (c) Construction, installation or maintenance of electric and telephone utility lines;
- (d) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (e) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
- (f) Surface or deep mining;
 - (1) exploration or drilling for soil and gas including the well site, roads and off-site disposal areas;

- (g) Tilling, planting or harvesting of agricultural, horticultural, or forest crops;
- (h) Construction, repair or rebuilding of the tracks, right-of-way bridges, communication facilities and other related structures and facilities of a railroad company;
- (i) Preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development;
- (j) Disturbed land areas for commercial or noncommercial uses of less than ten thousand (10,000) square feet in size;
- (k) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (l) Shore erosion control projects on tidal waters recommended by the soil and water conservation districts in which the projects are located or approved by the marine resources commission;
- (m) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan approving authority;
- (n) Agricultural, horticultural or forestry activities or such activities as are essentially related thereto when such operations are carried on as a part of a program of continuing such agricultural, horticultural or forestry operations or represent a conversion from one such activity to another specified in this subparagraph;
- (o) Engineering operations recommended or approved by the soil and water conservation districts on privately owned, occupied or operated agricultural, horticultural or forest lands such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches and the like; the utilization of strip cropping, lister furrowing, contour cultivating, contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded land to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation, rotation of crops, soil stabilization with trees, grasses, legumes, and other thick growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gulled or otherwise eroded. (3-10-75; Ord. No. 85A-1, 6-16-77)

Section 5A-5. Procedures for plan submission and review, inspection and enforcement.

Those procedures for plan submission and review, inspection and enforcement are set forth in a separate document which is made a part hereof entitled, "State Minimum Criteria, Standards and Specifications," Chapter 3, and "Stormwater Management," Chapter 4, adopted from the Virginia Erosion and Sedimentation Control Handbook, February, 1980. (3-10-75; Ord. No. 85A-3, 5-11-81)

- (a) Land-disturbing activities where permit is issued. With respect to approved plans for erosion and sediment control in connection with land-disturbing activities which involve the issuance of a grading, building, or other permit, either the permit-issuing authority or plan-approving authority shall provide for periodic inspections of the land-disturbing activity to ensure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land-disturbing activities. Notice of such right of inspection shall be included in the permit. The owner, occupier or operator shall be given an opportunity to accompany the inspectors. If the permit-issuing authority or plan-approving authority determines that the permittee has failed to comply with the plan, the authority shall immediately serve upon the permittee by registered or certified mail to the address specified by the permittee in his permit application a notice to comply. Where the plan-approving authority serves notice, a copy of each notice shall also be sent to the issuer of the permit. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permittee fails to comply within the time specified, he may be subject to revocation of the permit; furthermore, he shall be deemed to be in violation of this article and upon conviction shall be subject to the penalties provided by the article.
- (b) Other regulated land-disturbing activities. With respect to approved plans for erosion and sediment control in connection with all other regulated land-disturbing activities, the plan-approving authority may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections after notice to the resident owner, occupier or operator as are deemed necessary to determine whether the soil erosion and sediment control measures required by the approved plan are being properly performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land-disturbing activity. Such resident owner, occupier or operator shall be given an opportunity to accompany the inspectors. If it is determined that there is failure to comply with the approved plan, the plan-approving authority shall serve notice upon the person who is responsible for carrying out the plan at the address specified by him in his certification at the time of obtaining his approved plan. Such notice shall set forth the measures needed for compliance and the time within which such measures shall be completed. Upon failure of such person to comply within the specified period, he will be deemed to be in violation of the article and upon conviction shall be subject to the penalties provided by the article.

Section SA-7. Action on plans.*

Upon submission of an erosion and sediment control plan to the plan-approving authority:

- (1) The plan-approving authority shall, within forty-five days, approve any such plan if it determines that the plan meets the conservation standards of the local control program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article;
- (2) The plan-approving authority must act on all plans submitted within forty-five days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving the specific reasons for its disapproval. When a plan submitted for approval under this section is found, upon review by the agency, to be inadequate, the agency shall specify such modifications, terms, and conditions as will permit approval of the plan and communicate these requirements to the applicant as herein required. If no action

is taken by the plan-approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

* State Law Reference - Code of Virginia, Section 21-89.6(b)

Section 5A-11. Penalty.

- (a) A violation of this chapter shall be deemed a misdemeanor and upon conviction shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) or thirty (30) days imprisonment, or both, for each violation. (3-10-75).
- (b) The County or the Commission may apply to the court of record in the jurisdiction wherein the land lies, or to the Circuit Court of the City of Richmond should the land lie in more than one jurisdiction, for injunctive relief to enjoin a violation or a threatened violation under Section 5A-5 or Section 5A-9 of this Chapter, without the necessity of showing that there does not exist an adequate remedy at law.

F O R M E D

DEC 2 1985

ORDINANCE NO. 147A-1
BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6A, SMOKE DETECTORS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 6A-4, OWNER'S RESPONSIBILITIES IN MULTIFAMILY RESIDENTIAL BUILDINGS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 6A, Smoke Detectors, is hereby amended and reordained by amending Section 6A-4, Owner's responsibilities in multifamily residential buildings.

Chapter 6A. Smoke Detectors

Section 6A-4. Owner's responsibilities in multifamily residential buildings.

(a) The owner shall install smoke detectors in the following structures or buildings: (i) any building containing one or more dwelling units, (ii) any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons, and (iii) rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations. Smoke detectors installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code. Smoke detector may be either battery operated or AC powered units.

(b) The owner of any unit which is rented or leased, at the beginning of each tenancy and at least annually thereafter, shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order.

A copy of all such certificates shall be available for inspection by the county building inspector, or his duly authorized representative.

(c) Except for smoke detectors located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair, or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement.

(d) Any building containing fewer than four dwelling units which was not in compliance with this section on July 1, 1984, shall be exempted from the requirements of this section until such time as that building or any dwelling unit therein is sold or rented to another person.

State law reference, Code of Virginia, Section 15.1-29.9.

ORDINANCE NO. 116A-9

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, HEALTH AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, HEALTH CERTIFICATE FOR FOOD HANDLERS, SECTION 8-1, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Health and Sanitation, is hereby amended and reordained by amending Section 8-1, Definitions:

Chapter 8. Health and Sanitation

Article I. Health Certificate for Food Handlers

Section 8-1. Definitions.

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

- (a) Food shall mean and include all articles used for food, drink, confectionary or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.
- (b) Food handler shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.
- (c) Health officer shall mean the director of the department of public health for James City-Williamsburg Health Department or his authorized representative.
- (d) Restaurant shall mean and include any one of the following:
 - a. Any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, and dining accommodations of public and private schools and colleges. Excluded from the definition are places manufacturing packaged or canned foods which are distributed to grocery stores or other similar food retailers for sale to the public.

- b. Any place or operation which prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include but are not limited to operations preparing or storing food for catering services, pushcart operations, hotdog stands, and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence. (Ord. No. 117, 5-8-78)

ADOPTED

ORDINANCE NO. 16A-11 DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF SECTION 9-91, TOBACCO RETAILERS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Section 9-91, Tobacco Retailers, of the Code of the County of James City, Virginia, is hereby repealed and declared null and void and of no effect.

Chapter 9. Licenses

Article II. Specific Businesses and Activities

ADOPTED

ORDINANCE NO. 16A-10 DEC 9 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE II, SPECIFIC BUSINESSES AND ACTIVITIES, SECTION 9-28, ALCOHOLIC BEVERAGES; SECTION 9-41, BONDSMEN, PROFESSIONAL, AND THEIR AGENTS; SECTION 9-54, DANCE HALLS, ETC., OPEN TO PUBLIC; SECTION 9-55, DETECTIVE AGENCIES AND WATCHMEN; SECTION 9-72, PAWNBROKERS; SECTION 9-83, TATTOOING; SECTION 9-99, VENDORS, ITINERANT; AND ARTICLE IV, COIN-OPERATED MACHINES, DIVISION 1, SLOT MACHINES GENERALLY, SECTION 9-106, LICENSE TAXES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses, is hereby amended and reordained by amending Section 9-28, Alcoholic beverages; Section 9-41, Bondsmen, professional, and their agents; Section 9-54, Dance halls, etc., open to public; Section 9-55, Detective agencies and watchmen; Section 9-72, Pawnbrokers; Section 9-83, Tattooing; Section 9-99, Vendors, itinerant; and Section 9-106, License taxes.

Chapter 9. Licenses

Article II. Specific Businesses and Activities

Section 9-28. Alcoholic beverages.

Every person engaged in dispensing alcoholic beverages shall become liable for license taxes as follows:

(1) For each distiller's license, \$1,000 per annum; provided that no such local license shall be required for any person who shall manufacture not more than 5,000 gallons of alcohol or spirits or both during such license year;

(2) For each winery license, \$1,000 per annum;

(3) For each brewery license, \$1,000 per annum;

(4) For each bottler's license, \$500 per annum;

(5) For each wholesale beer license, \$75 per annum;

(6) For each wholesale wine distributor's license, \$50 per annum, and for each wholesale druggist license, \$10 per annum;

(7) For each retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each specialty shop and convenience grocery store license, \$37.50 per annum;

(8) For each retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license, \$25, per annum;

(9) Mixed alcoholic beverages.

(a) Persons operating restaurants, including restaurants located on premises of and operated by hotels and motels:

(i) Two hundred dollars per annum for each restaurant with a seating capacity at tables for 50 to 100 persons;

(ii) Three hundred fifty dollars per annum for each restaurant with a seating capacity at tables for more than 100 but not more than 150 persons;

(iii) Five hundred dollars per annum for each restaurant with a seating capacity at tables for more than 150 persons;

(iv) Five hundred dollars per annum for each caterer; and

(v) Mixed beverages special events licenses, ten dollars for each day of each event.

(b) A private, nonprofit club operating a restaurant located on the premises of such club, \$350 per annum.

The aforesaid licenses shall be as respectively defined by the act of the general assembly of Virginia, as heretofore and hereafter amended, known as "The Alcoholic Beverage Control Act" and the terms "alcoholic beverage."

"alcohol," "spirits," "beer," "wine," and "mixed alcoholic beverage," wherever used in this section shall have the meanings respectively ascribed to them by that act.

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", which state license shall be exhibited to the commissioner of the revenue.

Any such license may be amended to show a change in the place of business within the county. 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 board. (Ord. No. 16A-7, 11-16-81)

State law reference--Alcoholic Beverage Control Act, Code of Virginia, Section 4-1 et seq. State license tax on alcoholic beverage dispensers, Code of Virginia, Sections 4-38, 4-98.19.

Section 9-41. Bondsmen, professional, and their agents.

Every person who shall, for compensation, become or furnish surety for any person or persons charged with a felony or misdemeanor or with violation of any county ordinance or state law, shall pay a license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is the greater amount. Such license shall not be transferable.

No professional bondsman licensed under the provisions of this section shall designate any person, association, firm, partnership or corporation as his agent to act in his behalf in furnishing surety for any person or persons.

Nothing in this section shall be construed to conflict with regulatory laws governing conduct, practice or fees of professional bondsmen.

No license shall be issued hereunder for any professional bondsman unless and until there is presented to the commissioner of the revenue a certificate from a judge of the circuit court of James City County permitting the operation of this business and that the professional bondsman is entitled to be so licensed. (Ord. No. 16A-7, 11-16-81)

State law reference--State licenses for bondsmen, Code of Virginia, Section 58.1-3724.

Section 9-54. Dance halls, etc., open to public.

Every person engaged in the operation of a dance hall or any commercial hall open to the general public where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received, either directly or indirectly, by cover charge or otherwise, shall pay a license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is the greater amount.

No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a permit issued pursuant to Chapter 4A, Dance Halls, from the county administrator permitting or authorizing the operation of this business. (Ord. No. 16A-7, 11-16-81)

Section 9-55. Detective agencies and watchmen.

(a) Every person operating a detective agency, or engaged in a business as a detective, shall pay an annual license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is the greater amount:

No license shall be issued hereunder unless and until there is presented to the commissioner of revenue a certificate or permit from the sheriff of this county, recommending the applicant as a person of good moral character with no police record.

(b) Every person operating a business or agency furnishing watchmen, including ship watching for compensation, shall pay an annual license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is the greater amount. (Ord. No. 16A-7, 11-16-81)

Section 9-72. Pawnbrokers.

Every person engaging in the business of a pawnbroker shall pay an annual license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts, whichever is the greater amount.

For the purpose of this section a pawnbroker shall be deemed to mean any person who shall in any manner lend or advance money or other things or profit on the pledge and possession of personal property or other valuable things other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

Every person displaying to the public by painted, or otherwise, the three balls commonly used to designate the pawnbroker's business shall be deemed a pawnbroker and be subject to the license tax required in this section.

No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate from the circuit court permitting the operation of this business.

No license issued under this section shall be proratable or transferable. (Ord. No. 16A-7, 11-16-81)

Section 9-83. Tattooing.

Every person engaged in the business of tattooing in this county shall pay an annual license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts whichever is the greater, which license shall not be proratable.

No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate from the county administrator permitting the operation of this business. (Ord. No. 16A-7, 11-16-81)

Section 9-99. Vendors, itinerant.

Every person who shall engage in, do or transact any temporary or transient business in this county for the sale of goods, wares and merchandise and who, for the purpose of carrying on such business shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, boat or public room, or any part hereof, including rooms in hotels, lodging houses or houses or private establishments or in any street, alley or other public place, for a period of less than one year, for the exhibition of or sale of such goods, wares or merchandise, shall pay for such privilege, in addition to a merchant's license tax, a specific license tax of five hundred dollars (\$500.00).

Every person who has not been licensed for at least one year to sell or offer for sale goods, wares or merchandise under this chapter and who shall apply for a license to offer or sell goods, wares or merchandise within this county shall file with such application an affidavit from the owner of the building, structure, etc., 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, and no license shall be issued unless and until such affidavit is attached to the application; provided, that the commissioner of the revenue may, in lieu of the foregoing 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 chapter for a period of one year from the date of the application of such license, and such bond or security shall provide that such amount shall be paid to James City County 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 this county.

No person shall be exempt from the payment of the license tax imposed by this section by reason of association 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.

The provisions of this section shall not apply to the sale at auction of any wagon, carriage, automobile, mechanics tools, used farming implements, livestock, poultry (dressed or undressed), seafood, vegetables, fruits, melons, berries, flowers, leaf tobacco, or for sale of used household furniture and used household effects when being sold at the residence of the housekeeper desiring to dispose of the same; nor to sales made to dealers by commercial travelers or selling agents to regularly established merchants or of manufacturers selling to the trade by sample for future delivery from their established place of business, not to the sale of products raised upon lands leased or owned by the seller nor the sale of vegetables, fruits or other farm products, not to hawkers on the streets nor to the sales of any goods by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this commonwealth or of the United States, nor to peddlers for whom licenses are otherwise provided by this chapter. (Ord. No. 16A-7, 11-16-81)

State law reference—Code of Virginia, Sections 58.1-3717, 58.1-3719.

ARTICLE IV. COIN-OPERATED MACHINES*

DIVISION 1. SLOT MACHINES GENERALLY**

Section 9-106. License taxes.

The license tax imposed on any amusement operator, as defined herein, may be imposed in any amount not exceeding the sum of two hundred dollars (\$200.00). The term "amusement operator" means any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine or device operated on the coin-in-the-slot principle; provided, however, the term "amusement 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. Notwithstanding the situs requirements of Code of Virginia, Section 58.1-3707, this license tax is imposed on the amusement operator when any such coin-operated machine or device operated on the coin-in-the-slot principle of such amusement operator is located therein.

Any person having anywhere in this county a machine of any description into which are inserted nickels or coins of larger denominations to dispose of articles of merchandise or for the purpose of operating devices that operate on the coin-in-the-slot principle, used for gain except a telephone, shall pay for every such machine or device, a license tax of twenty-five dollars (\$25.00) per year, except that for each coin-operated musical machine, the license tax shall be ten dollars (\$10.00) per year.

This section 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 operators of devices or machines affording rides to children or for the delivery of newspapers.

No license shall be imposed on any vending machine under the ownership or supervision of any state commission or state agency. (Ord. No. 16A-7, 11-16-81)

*Editor's note—Ord. No. 16A-7, amended Article IV to read as herein set out. Prior to such amendment, Article IV was derived from Ord. of Dec. 31, 1971, Sections 105—112.

**State law reference—State licensing of slot machines generally, Code of Virginia, Sections 58.1-3720—58.1-3723.

ORDINANCE NO. 17A-2

ADOPTED

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF CHAPTER 10, MOBILE HOME PARKS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 10 of the Code of the County of James City, Virginia, is hereby repealed and declared null and void and of no effect.

ORDINANCE NO. 66A-16

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 11-7, ADOPTION OF STATE LAW; SECTION 11-22, DUTY OF DRIVER TO STOP, ETC., IN EVENT OF ACCIDENT; DUTY OF OCCUPANT; REPORTS ADDITIONAL TO OTHER ACCIDENT REPORTS REQUIRED BY STATE LAW; SECTION 11-23, PERSONS AT SCENE OF ACCIDENT TO LEAVE UPON ORDER OF POLICE OFFICER; SECTION 11-25, SECURITY OF CARGOS; SPILLING, LEAKING, SCATTERING FROM VEHICLES PROHIBITED; ARTICLE III, STOPPING, STANDING AND PARKING, SECTION 11-40, MANNER OF PARKING GENERALLY; SECTION 11-42, STOPPED VEHICLE NOT TO ENDANGER OTHERS OR IMPEDE TRAFFIC; REMOVAL OF VEHICLES IN VIOLATION; SECTION 11-44, WHEN RED REFLECTOR FLARES OR ELECTRIC LANTERNS REQUIRED; SECTION 11-46, KEEPING OF INOPERATIVE AUTOMOBILES IN RESIDENTIAL, COMMERCIAL ZONE, OR LIMITED AGRICULTURAL, A-2, ZONE; SECTION 11-47, REMOVAL AND DISPOSITION OF UNATTENDED VEHICLES GENERALLY; SECTION 11-51, LEAVING VEHICLES UPON PRIVATE PROPERTY PROHIBITED; REMOVAL AND DISPOSITION THEREOF; NOTICE OF DISPOSITION; SECTION 11-52, PRESUMPTION WHERE VEHICLE ILLEGALLY PARKED; SECTION 11-60, PERSONS EXEMPTED; AND SECTION 11-63, VIOLATIONS AND PENALTIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-7, Adoption of state law; Section 11-22, Duty of driver to stop, etc., in event of accident; duty of occupant; reports additional to other accident reports required by state law; Section 11-23, Persons at scene of accident to leave upon order of police officer; Section

11-25, Security of cargos; spilling, leaking, scattering from vehicles prohibited; Article III, Stopping, Standing and Parking, Section 11-40, Manner of parking generally; Section 11-42, Stopped vehicle not to endanger others or impede traffic; removal of vehicles in violation; Section 11-44, When red reflector flares or electric lanterns required; Section 11-46, Keeping of inoperative automobiles in residential, commercial zone or limited agricultural, A-2, zone; Section 11-47, Removal and disposition of unattended vehicles generally; Section 11-51, Leaving vehicles upon private property prohibited; removal and disposition thereof; notice of disposition; Section 11-52, Presumption where vehicle illegally parked; Section 11-60, Persons exempted; and Section 11-63, Violations and penalties.

Chapter 11. Motor Vehicles and Traffic

Article I. In General

Section 11-7. Adoption of state law.

Pursuant to the authority of Section 46.1-188 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in Title 46.1 of the Code of Virginia, as amended, and in force on July 1, 1985, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the county. Such provisions and requirements are hereby adopted, *mutatis mutandis*, 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 county, to violate or fail, neglect or refuse to comply with any provision of Title 46.1 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 Title 46.1 of the Code of Virginia. (11-25-74; Ord. No. 66A-11, 8-8-83)

Section 11-22. Duty of driver to stop, etc., in event of accident; duty of occupant; reports additional to other accident reports required by state law.

(a) The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic and report forthwith to either the county police department or the state police authority, and, in addition, to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property, his name, address, driver's license number and the registration number of his vehicle. The driver shall also render reasonable assistance to any person injured in such accident, including the carrying of such injured person to a physician, surgeon or hospital for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

Where, as a result of the injuries sustained in the accident, the driver is prevented from complying with the above provision, the driver shall, as soon as reasonably possible, make the required report to either the county police department or the state police authority and make a reasonable effort to locate the person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the damaged property and report to such person or persons his name, address, driver's license number and the registration number of his vehicle.

(b) If the driver fails to stop and make the report required by paragraph (a) of this section, every person sixteen (16) years of age or older in the vehicle with the driver at the time of the accident who has knowledge of the accident shall have a duty to ensure that a report is made within twenty-four (24) hours from the time of the accident to the county police department, giving his name, address and such other information within his knowledge as the driver must report pursuant to paragraph (a) of this section.

(c) The driver of any vehicle involved in an accident in which no person is killed or injured but in which an unattended vehicle or other unattended property is damaged shall make a reasonable effort to find the owner or custodian of such property and shall report to the owner or custodian the information which the driver must report pursuant to paragraph (a) of this section if such owner or custodian is found. If the owner or custodian of such damaged vehicle or property cannot be found, the driver shall leave a note in a conspicuous place at the scene of the accident and shall report the accident in writing within twenty-four (24) hours to either the county police department or state police. Such note and written report shall contain the information which the driver must report pursuant to paragraph (a) of this section and such written report shall state in addition to the date, time and place of the accident and the driver's estimate of the property damage.

Where, as a result of the injuries sustained in the accident, the driver is prevented from complying with the above provisions, the driver shall, as soon as reasonably possible, make the required report to either the county police department or state police and make a reasonable effort to find the owner or custodian of the unattended vehicle or property and report to such person or persons such information as is required to be reported pursuant to paragraph (a) of this section.

(d) If the driver fails to stop and make a reasonable search for the owner or custodian of an unattended vehicle or property or to leave a note for such owner or custodian as required by paragraph (c) of this section, any person sixteen (16) years of age or older in the vehicle with the driver at the time of the accident who has knowledge of the accident shall report within twenty-four (24) hours from the time of the accident to the county police department or state police, his name, address and other such facts within his knowledge as are required by paragraph (c) of this section to be reported by the driver.

(e) The reports required by this section are in addition to other accident reports required by state law and shall be made irrespective of the amount of property damage involved.

(f) The provisions of this section shall apply irrespective of whether such accident occurs on the public streets or highways or on private property. (8-3-53, Section 6; Ord. No. 66A-5, 10-23-78; Ord. No. 66A-11, 8-8-83)

State law reference - Section 46.1-176.

Section 11-23. Persons at scene of accident to leave upon order of police officer.

No person shall refuse to move away from the scene of a traffic accident when such person is directed to do so by a police officer or, in the absence of a police officer, by the order of the uniformed fire or rescue officer in charge. (8-3-53, Section 44)

Section 11-25. Security of cargos; spilling, leaking, scattering from vehicles prohibited.

No vehicle shall be operated or moved on any highway unless such vehicle is so constructed, maintained, and loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that no provision of this section shall apply to any (i) motor vehicle which is used exclusively for agricultural purposes and which is not operated on or over any public highway for any other purpose other than for the purpose of operating it across a highway or along a highway from one point of the owner's land to another part thereof irrespective of whether or not the tracts adjoin; (ii) to any agricultural vehicle, tractor or other vehicle exempted from registration and licensing requirements pursuant to Section 46.1-45; or (iii) to any motor vehicle transporting poultry or livestock.

State law reference—Code of Virginia, Section 46.1-303.

Section 11-40. Manner of parking generally.

No vehicle shall be stopped except close to and parallel to the right-hand edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left-hand curb or edge of roadway on one-way streets or may be parked at an angle where permitted by the state highway and transportation board or the board of supervisors with respect to streets and highways under its jurisdiction. (8-3-53, Section 42)

State law reference - Similar provisions, Code of Virginia, Section 46.1-248(b).

Section 11-42. Stopped vehicle not to endanger others or impede traffic; removal of vehicles in violation.

No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency as the result of an accident or mechanical breakdown, in which case the emergency flashing lights of such vehicle should be turned on if the vehicle is equipped with such lights and such lights are operating, and a report shall be made to the nearest police officer as soon as practicable and the vehicle shall be removed from the highway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a police officer at the expense of the owner if the disabled vehicle creates a traffic hazard. (8-3-53, Section 42; Ord. No. 66A-11, 8-8-83)

State law reference - Similar provisions, Code of Virginia, Section 46.1-248(a).

Section 11-44. When red reflector flares or electric lanterns required.

If any vehicle mentioned in the proceeding section is used for the transportation of inflammable liquids in bulk, whether loaded or empty, or for transporting inflammable gases, red reflector flares or red electric lanterns of a type approved by the superintendent of state police shall be used in lieu of flares. Such reflectors or lanterns shall be lighted and placed upon the roadway in the manner provided above for the placing of flares. (8-3-53, Section 46)

State law reference - Similar state law, Code of Virginia, Section 46.1-256.

Section 11-46. Keeping of inoperative automobiles in residential, commercial zone, or limited agricultural, A-2, zone.

It shall be unlawful for any person, firm, or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from public view, on any property zoned for residential or commercial or limited agricultural, A-2, purposes, any motor vehicle, trailer or

semitrailer, as such is defined in Section 46.1-1 of the Code of Virginia, which is inoperative. An inoperative motor vehicle shall mean any motor vehicle which is not in operating condition; or which for a period of 90 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle. The provisions of this act shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

The owners of property zoned for residential or commercial or limited agricultural, A-2, purposes shall, at such time as the County or its agent may prescribe, remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. If, after reasonable notice, the owner of the premises has failed to remove such vehicles, the County through its own agent or employees may remove them. The County through its own agent or employees may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the County as taxes and levies are collected. Every cost authorized by this Section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the County. (4-30-69; Ord. No. 66A-11, 8-8-83)

State law reference - Authority of board of supervisors to enact this section, Code of Virginia, Section 15.1-11.1.

Section 11-47. Removal and disposition of unattended vehicles generally.

(a) It shall be unlawful for any person to leave any motor vehicle, trailer or semitrailer, or part thereof, on the paved or improved surface of any highway or adjacent thereto or on public grounds, unaccompanied by the owner or operator thereof, if such motor vehicle, trailer or semitrailer constitutes a hazard in the use of the highway by reason of its position thereon, or has been unattended longer than ten days. Additionally, it shall be unlawful for any person to abandon any motor vehicle, trailer or semitrailer, or part thereof on such highway, surfaces or public grounds. The chief of police discovering or having a report of same shall remove it or have it removed to the nearest storage garage for safekeeping; however, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof, and that fact shall be immediately reported to the division of motor vehicles or some officer or agent of the division and to the owner of such motor vehicle, trailer or semitrailer, as promptly as possible, and such owner, before obtaining the possession of such motor vehicle, trailer or semitrailer shall pay to the parties entitled thereto all reasonable, necessary costs incidental to the removal or storage of such motor vehicle, trailer or semitrailer. In any case of a violation of the provisions of this section the owner of such motor vehicle, trailer or semitrailer, or part thereof, shall be presumed to be the person committing the violation; provided, that such presumption shall be rebuttable by competent evidence; provided further, that where it is shown to the satisfaction of the court that such vehicle was stolen or illegally used by a person other than the owner without authorization of the owner thereof, expressed or implied, such vehicle shall be forthwith returned to its innocent owner who shall be relieved of any payment of costs under the requirements of this section. In any case in which the identity of the person violating this section cannot be determined, or where it is found by the court of competent jurisdiction that this section was not violated, the costs incidental to the removal and storage of such vehicle shall be paid out of the county treasury. Should any owner found guilty of violating this section fail or refuse to apply such costs or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made or after notice to such owner at his address as indicated by the records of the division (and to the holder of any lien of record in the principal office of the division) against such motor vehicle, trailer or semitrailer, the chief of police or other officer designated by the governing body of the county may, after thirty (30) 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 selling

officer to the county treasurer; provided, that if the value of such motor vehicle, trailer or semitrailer be determined by three (3) disinterested dealers or garagemen to be less than one hundred fifty dollars (\$150.00) it may be disposed of by private sale or junked. The treasurer shall pay from the proceeds of the sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner and paid to the owner upon satisfactory proof of ownership.

(b) If no claim has been made by the owner for the proceeds of such sale, after the payment of the above-mentioned costs, the funds may be deposited to the general fund or any special fund of the county. Any such owner shall be entitled to apply to the county within three (3) years from the date of such sale and if timely application is made therefor, the county 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.

(c) It shall be presumed that any such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if:

- (1) It does not bear a current license plate or a current county sticker or a valid state inspection certificate or sticker; and,
- (2) It has been in a specific location for ten (10) days without being moved.

(d) Whenever any motor vehicle, trailer, semitrailer or part thereof is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on the paved or improved surface of any highway or right-of-way, the chief of police upon discovering or having a report of same may move or have such vehicle removed to some reasonably accessible portion of the adjacent right-of-way; handling or disposition thereafter shall be effected by the authorities, and pursuant to the conditions provided by the provisions of paragraph (a) of this section. (Ord. No. 66A-5, 10-23-78; Ord. No. 66A-8, 11-16-81; Ord. No. 66A-11, 8-8-83)

State law reference--Code of Virginia, Section 46.1-2.

Section 11-51. Leaving vehicles upon private property prohibited; removal and disposition thereof; notice of disposition.

It shall be unlawful for any person to leave any motor vehicle, trailer or semitrailer, or part thereof, on the private property of any other person without his consent.

Upon complaint of the owner of the property on which such motor vehicle, trailer or semitrailer, or part thereof, has been abandoned for more than seventy-two hours, such motor vehicle, trailer or semitrailer, or part thereof, may be removed by or under the direction of a police officer to a storage garage or area; provided, that the person at whose request such motor vehicle, trailer or semitrailer, or part thereof, is so removed shall indemnify the county against any loss or expense incurred by reason of removal, storage or sale thereof.

In the case of the removal of a motor vehicle, trailer or semitrailer, or part thereof, from private property, when the same cannot be readily sold, such motor vehicle, trailer or semitrailer, or part thereof, may be disposed of in such manner as the governing body of the county may provide.

In all other respects, the provisions of section 11-47 shall apply to such removals; provided, that disposal of a motor vehicle, trailer or semitrailer may at the option of the governing body be carried out under either the provisions of section 11-47 or under the provisions of this section, after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the division of motor vehicles of this state against such motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least sixty (60) days.

The division of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under section 11-47 or the provisions hereof.

State law reference - Similar state law and authority of county to enact this section, Code of Virginia, Section 46.1-3.2.

Section 11-52. Presumption where vehicle illegally parked.

In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Chapter 3 of Title 46.1 of the Code of Virginia, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

State law reference - Similar state law, Code of Virginia, Section 46.1-252.1.

Section 11-60. Persons exempted.

(a) The county shall not impose any motor vehicle license tax or license fee upon any motor vehicle, trailer or semitrailer when:

(1) A similar tax or license fee is imposed by the county, city or town wherein such motor vehicle, trailer or semitrailer is normally garaged, stored or parked;

(2) The motor vehicle, trailer or semitrailer is owned by a nonresident of the county and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in paragraph (3) of this subsection;

(3) The motor vehicle, trailer or semitrailer is owned by a nonresident and is used for transporting into and within the county for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream or eggs produced or grown by him, and not purchased by him for sale;

(4) The motor vehicle, trailer or semitrailer is owned by an officer or employee of the Commonwealth of Virginia who is a nonresident of the county and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;

(5) The motor vehicle, trailer or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;

(6) The motor vehicle, trailer or semitrailer is operated by a common carrier of persons or property operating between cities and towns in this Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places without cities and towns on the other and not in intracity transportation.

(b) The county shall not impose a license fee for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Department of Motor Vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in Section 46.1-149.1 of the Code of Virginia.

(c) The county shall not impose any license tax or license fee upon any daily rental passenger car, the rental of which is subject to the tax imposed by Section 58.1-2402 A 4 of the Code of Virginia.

(d) Every nondomiciliary member of the armed forces residing in this county in compliance with military or naval orders are exempt from the tax; provided, however, that all such military and naval personnel shall obtain, free of charge, a county license decal in accordance with the provisions of this article. (Ord. No. 66A-5, 10-23-78; Ord. No. 66A-10, 3-14-83)

Section 11-63. Violations and penalties.

Every person who violates any provision of this article shall, upon conviction, be punished by a fine of not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00). (3-13-72, Paragraph (13))

ORDINANCE NO. 66A-17

APPROVED
 DATE 9 16 86
 BY SUPERVISORS
 JAMES CITY COUNTY
 VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE IV, VEHICLE LICENSES, SECTION 11-54, VEHICLES WHICH REQUIRE LICENSE; LICENSE FEES; WHEN LICENSE YEAR BEGINS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, of the Code of the County of James City, is hereby amended and reordained effective January 1, 1986, by amending Section 11-54, Vehicles which require license; license fees; when license year begins.

Chapter 11. Motor Vehicles and Traffic

Article IV. Vehicle Licenses

Section 11-54. Vehicles which require license; license fees; when license year begins.

(a) On and after March 1st of each year the owner of each passenger motor vehicle (except motorcycles, motorbikes and mini-bikes), and the owner of each truck, owned or garaged in the county, shall make application to the county treasurer for a license, and shall pay an annual license fee of fifteen dollars (\$15.00).

(b) On and after March 1st of each year the owner of any trailer or semitrailer owned or garaged in the county, shall make application to the county treasurer for a license, and shall pay an annual license fee of six dollars and fifty cents (\$6.50). This section specifically excludes mobile homes.

(c) On and after March 1st of each year the owner of any motorcycle, motorbike or mini-bike, owned or garaged in the county, shall make application to the county treasurer for a license, and shall pay an annual license fee of ten dollars (\$10.00).

ORDINANCE NO. 72A-2

ADOPTED

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 12, OUTDOOR GATHERINGS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 12-1, BASIS AND PURPOSE OF CHAPTER.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 12, Outdoor Gatherings, is hereby amended and reordained by amending Section 12-1, Basis and purpose of chapter.

Chapter 12. Outdoor Gatherings

Section 12-1. Basis and purpose of chapter.

This chapter is enacted pursuant to Section 15.1-510 of the Code of Virginia, for the purpose of providing necessary regulation for the holding of outdoor gatherings, musical or entertainment festivals conducted in open spaces not within an enclosed structure specifically constructed for such a purpose. (Ord. No. 72A-1, 6-9-80)

ORDINANCE NO. 56A-4

ADOPTED

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, OFFENSES - MISCELLANEOUS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 13-5, AUTOMOBILE GRAVEYARDS REGULATED, AND MADE SUBJECT TO LICENSE TAX; SECTION 13-6, COUNTY OFFICERS AND EMPLOYEES - INTERFERING WITH, ETC.; SECTION 13-7, SAME - IMPERSONATION OF; SECTION 13-13, SAME - PENALTIES FOR VIOLATION; SECTION 13-17, FALSE ALARMS; SECTION 13-18, HIGHWAYS NOT TO BE MADE DEPOSITORIES FOR GLASS, NAILS, ETC., BY ANY PERSONS; SECTION 13-19, INDECENT EXPOSURE; SECTION 13-19.1, PUBLIC NUDITY - PROHIBITED; SECTION 13-21, OBSTRUCTING FREE PASSAGE OF OTHERS; SECTION 13-23, PETIT LARCENY; SECTION 13-27, RAILROAD CARS OBSTRUCTING HIGHWAY; STANDING VEHICLE ON RAILROAD TRACK; SECTION 13-28, SWIMMING POOLS IN AREAS ZONED FOR RESIDENTIAL USE; SECTION 13-29, TELEPHONE CALLS - PROFANE, THREATENING, ETC., LANGUAGE PROHIBITED; SECTION 13-31, SAME - CAUSING TELEPHONE TO RING WITH INTENT TO ANNOY; SECTION 13-32, SAME - USE OF PARTY LINE FOR EMERGENCY CALLS; SECTION 13-34, WEAPONS - FIREARMS NOT TO BE CARRIED, OR IN VEHICLE, WHEN LOADED; ENFORCEMENT PROVISIONS; AND SECTION 13-35, SAME - CARRYING CONCEALED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Offenses - Miscellaneous, is hereby amended and reordained by amending Section 13-5, Automobile graveyards regulated, and made subject to license tax; Section 13-6, County officers and employees - Interfering with, etc.; Section 13-7, Same - Impersonation of; Section 13-13, Same - Penalties for violation; Section 13-17, False alarms; Section 13-18, Highways not to be made depositories for glass, nails, etc., by any persons; Section 13-19, Indecent exposure; Section 13-19.1, Public nudity - Prohibited; Section 13-21, Obstructing free passage of others; Section 13-23, Petit larceny; Section 13-27, Railroad cars obstructing highway; standing vehicle on railroad track; Section 13-28, Swimming pools in areas zoned for residential use; Section 13-29, Telephone calls - Profane, threatening, etc., language prohibited; Section 13-31, Same - Causing telephone to ring with intent to annoy; Section 13-32, Same - Use of party line for emergency calls; Section 13-34, Weapons - Firearms not to be carried, or in vehicle, when loaded; enforcement provisions; and Section 13-35, Same - Carrying concealed.

Chapter 13. Offenses - Miscellaneous

Section 13-5. Automobile graveyards regulated, and made subject to license tax.

An automobile graveyard is, as defined in section 33.1-348 of the Code of Virginia, any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

The location of any automobile graveyard within this county shall require a special use permit issued by the board of supervisors and shall be subject to a quarterly license tax in the amount of fifty dollars. No automobile graveyard shall commence or continue to operate without payment of such quarterly license tax.

Any person who maintains a site, lot or place as an automobile graveyard, any part of which is within one thousand feet of any highway comprising a part of the state highway system, shall erect and maintain a fence or hedge around such automobile graveyard. (1-31-64.)

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

For state law as to authority of county to enact this section, see Code of Virginia, Section 15.1-28. For state law applicable to automobile graveyards and junk yards, see Code of Virginia, Section 33.1-348.

Section 13-6. County officers and employees - Interfering with, etc.

It shall be unlawful for any person to carelessly or willfully interfere with, hinder or obstruct any officer or employee of the county who is engaged in, en route to or returning from, the performance of official duty, whether such interference, hindrance or obstruction be by threat, assault or otherwise.

For state law as to refusal to aid officer in the execution of his office, see Code of Virginia, Section 18.2-460. As to obstructing justice by threats or force, see Code of Virginia, Section 18.2-463.

Section 13-7. Same - Impersonation of.

It shall be unlawful for any person to falsely represent himself to be an officer or employee of the county or, without proper authority, wear or display any uniform, insignia or credential which identifies any county officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the county, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

For state law as to impersonating peace officer, see Code of Virginia, Section 18.2-174. As to unlawful wearing of uniform of peace officer, see Code of Virginia, Section 18.2-175.

Section 13-13. Same - Penalties for violation.

Every person who violates any of the provisions of sections 13-10 to 13-12, inclusive, or who shall fail to proceed forthwith to his home or place of abode when so ordered by such officer or who shall knowingly give a false name or false address to such officer shall, upon conviction thereof, be guilty of a Class 4 misdemeanor. (9-30-65, Section 5.)

Section 13-17. False alarms.

It shall be unlawful for any person to:

- (a) knowingly give or cause to be given any false alarm of fire.
- (b) knowingly give or cause to be given any false alarm of explosion or impending danger of explosion.
- (c) knowingly give or cause to be given any false alarm of the need for police protection or assistance, or any false report to the sheriff's department or the police department.
- (d) knowingly give or cause to be given any false alarm of the need for an ambulance or medical assistance.

State law references - Giving false alarms of bombing, burning, etc., Code of Virginia, Section 18.2-83; summoning fire-fighting apparatus, ambulances without just cause, Code of Virginia, Section 18.2-212; giving false reports to police officers, Code of Virginia, Section 18.2-461.

Section 13-18. Highways not to be made depositories for glass, nails, etc., by any persons.

It shall be unlawful for any person to throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

State law reference - For similar state law, see Code of Virginia, Section 18.2-324.

Section 13-19. Indecent exposure.

It shall be unlawful for any person to intentionally make an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procure another to do so.

State law reference - Indecent exposure, Code of Virginia, Section 18.2-387.

Section 13-19.1. Public nudity - Prohibited.

(a) As used in this section "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

(b) It shall be unlawful for any person to knowingly, voluntarily and intentionally appear in public, or in a public place, or in a place open to the public or open to public view, in a state of nudity or to employ, encourage or procure another person to so appear.

(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, act or drama as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promotion, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise such as a hotel, motel, bar, nightclub, restaurant, tavern or dance hall. (Ord. No. 56A-2, 8-13-84)

Editor's note - Ordinance No. 56A-2, adopted Aug. 13, 1984, amended Ch. 13 by adding a new Section 13-24.1. In order to better facilitate the inclusion of these provisions, and with the consent of the county, the editor has redesignated these provisions as a new Section 13-19.1.

Section 13-21. Obstructing free passage of others.

It shall be unlawful for any person or persons in any public place or on any private property open to the public to unreasonably or unnecessarily obstruct the free passage of other persons to and from or within such public place or private property and to fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law-enforcement officer; but nothing in this section shall be construed to prohibit lawful picketing.

State law reference - Code of Virginia, Section 18.2-404.

Section 13-23. Petit larceny.

It shall be unlawful for any person to commit larceny from the person of another of money or other thing of value less than five dollars, or to commit simple larceny not from the person of another of goods and chattels of value less than two hundred dollars. Persons violating this section shall be guilty of petit larceny which shall be punishable as a Class 1 misdemeanor.

For state law as to petit larceny, see Code of Virginia, Section 18.2-96.

Section 13-27. Railroad cars obstructing highway; standing vehicle on railroad track.

It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct for a longer period than five minutes the free passage on any highway or road by standing cars or trains across the same, except a passenger train while receiving or discharging passengers, but a passageway shall be kept open to allow normal flow of traffic; nor shall it be lawful to stand any wagon or other vehicle on the track of any railroad which will hinder or endanger a moving train; provided, that when a train has been uncoupled, so as to make a passageway, the time necessarily required, not exceeding three minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such highway or road. Any such railroad company, receiver or trustee, or driver of any such wagon or vehicle, violating any of the provisions of this section shall be fined not less than one hundred nor more than five hundred dollars provided that the fine may be one hundred dollars for each minute beyond the permitted time but the total fine shall not exceed five hundred dollars. This section shall not apply when the train is stopped due to breakdown, mechanical failure or emergency.

For similar state law, see Code of Virginia, Section 56-412.1, 412.2.

Section 13-28. Swimming pools in areas zoned for residential use.

It shall be unlawful for any person in any area zoned for residential use to:

(a) Construct, maintain, use, possess or control any swimming pool without having completely around such swimming pool a fence as hereinafter defined; or

(b) Construct, maintain, use, possess or control any gate in such fence which is not capable of being securely fastened at a height of not less than four feet above ground level, and it shall be unlawful for any person using, possessing or controlling any such gate to allow it to remain unfastened while the pool is not in use.

"Swimming pool" shall include any outdoor man-made structure constructed from material other than natural earth or soil designed or used to hold water for the purposes of providing a swimming or bathing place for any person, or any such structure for the purpose of impounding water therein to a depth of more than two feet.

"Fence" shall mean a close type vertical barrier not less than four feet in height above ground surface. A woven steel wire, chain link, picket or solid board type fence or a fence of similar construction which will prevent the smallest of children from getting through shall be construed as within this definition. The fence shall be constructed so as to come within two inches of the ground at the bottom and shall be at least five feet from the edge of the pool at any point. (9-8-69.)

For state law as to authority of county to enact this section, see Code of Virginia, Section 15.1-29.

Section 13-29. Telephone calls - Profane, threatening, etc., language prohibited.

It shall be unlawful for any person to curse or abuse anyone, or to use vulgar, profane, indecent or threatening language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person, over any telephone or citizens band radio, in this county.

For state law as to use of profane, abusive, etc., language over telephone, and duty of telephone companies to furnish information as to violations, etc., see Code of Virginia, Section 18.2-427.

Section 13-31. Same - Causing telephone to ring with intent to annoy.

It shall be unlawful for any person, without intent to converse but with intent to annoy any other person, to cause any telephone not his own to ring; and no person shall permit or condone the use of any telephone under his control for such purpose. Persons violating this section shall be guilty of a Class 3 misdemeanor.

For similar state law, see Code of Virginia, Section 18.2-429.

Section 13-32. Same - Use of party line for emergency calls.

(a) It shall be unlawful for any person to fail to relinquish a telephone party line after he has been requested to do so to permit another to place an emergency call; provided, that this subsection shall not apply to any person who is himself using the telephone party line for such emergency call.

(b) It shall be unlawful for any person to request another to relinquish a telephone party line on the pretext that he must place an emergency call, knowing such pretext to be false.

(c) As used in this section, "telephone party line" means a subscribers' line circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number; and "emergency call" means a call to report a fire or summon police, or for medical aid or ambulance service, in a situation where human life or property is in jeopardy and the prompt summoning of aid is essential.

(d) Persons violating this section shall be guilty of a Class 3 misdemeanor.

For state law as to emergency calls over telephone party line, see Code of Virginia, Sections 18.2-424, 18.2-425, 18.2-426.

Section 13-34. Weapons - Firearms not to be carried, or in vehicle, when loaded; enforcement provisions.

(a) It shall be unlawful for any person to carry or have in his possession while on any part of a public highway within the county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking. The provisions of this subsection shall not apply to persons carrying loaded firearms in moving vehicles, nor to persons acting at the time in defense of persons or property.

(b) It shall be unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within the county. Game wardens, sheriffs and all other law-enforcement officers shall enforce the provisions of this subsection.

The provisions of this subsection shall not apply to duly authorized law-enforcement officers or military personnel in the performance of their lawful duties, nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

(c) Any violation of this section shall be punishable by a fine of not more than \$100.00.

For state Uniform Machine Gun Act, see Code of Virginia, Section 18.2-288 et seq. For Sawed-Off Shotgun Act, see Code of Virginia, Section 18.2-299 et seq. For general law as to other illegal weapons, see Code of Virginia, Section 18.2-308 et seq.

State law reference - Code of Virginia, Sections 18.2-287, 18.2-287.1.

Section 13-35. Same - Carrying concealed.

A. If any person carry about his person, hid from common observation, any pistol, revolver, or other weapon designed or intended to propel a missile of any kind, dirk, bowie knife, switchblade knife, razor, slingshot, metal knucks, blackjack, any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, unchuck, nunchaku, shuriken, or fighting chain, or any weapon of like kind, he shall be guilty of a Class 1 misdemeanor, and such weapon shall be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the Division of Consolidated Laboratory Services shall be devoted to that purpose, and the remainder shall be destroyed by the officer having them in charge.

B. This section shall not apply to:

1. Any person while in his own place of abode or the curtilage thereof; and
2. Any police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Chapter 3 of Title 29 (Section 29-24 et seq.) of the Code of Virginia.
3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported; and
5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail in rural districts;
2. Officers or guards of any state correctional institution;
3. Campus police officers appointed pursuant to Chapter 17 of Title 23 (Section 23-232 et seq.) of the Code of Virginia;
4. Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed weapon without obtaining a permit as provided in Section 18.2-308(D) of the Code of Virginia: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; (d) commissioners in chancery; and
5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Secretary of Public Safety or the Director of the Department of Corrections pursuant to Section 53-39 of the Code of Virginia.

For state law as to the carrying of concealed weapons, see Code of Virginia, Section 18.2-308.

ORDINANCE NO. 150A-2

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF CHAPTER 15, RIOTS, UNLAWFUL ASSEMBLIES AND RELATED OFFENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 15 of the Code of the County of James City, Virginia, is hereby repealed and declared null and void and of no effect.

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 18-1, GENERAL RETAIL SALES TAX LEVIED; SECTION 18-2, USE TAX IMPOSED; SECTION 18-2.1, LOCAL EXEMPTION OF CERTAIN ENERGY SOURCES; SECTION 18-3, RECORDATION TAX IMPOSED; SECTION 18-4, ASSESSMENT OF NEW BUILDINGS AND COMPUTATION OF TAX THEREON; WHEN PENALTY ACCRUES FOR NONPAYMENT; SECTION 18-5, TAX ON BANK NET CAPITAL; SECTION 18-7.1, LAND USE ASSESSMENT; SECTION 18-7.2, REFUND OF LEVIES ERRONEOUSLY PAID; SECTION 18-7.3, PENALTIES FOR LATE APPLICATION OR FILING; SECTION 18-7.4, PENALTIES AND INTEREST FOR LATE PAYMENT OF TAXES; AND ARTICLE II, EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES; SECTION 18-12, APPLICATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18, Taxation, is hereby amended and reordained effective January 1, 1986, by amending Section 18-1, General retail sales tax levied; Section 18-2, Use tax imposed; Section 18-2.1, Local exemption of certain energy sources; Section 18-3, Recordation tax imposed; Section 18-4, Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment; Section 18-5, Tax on bank net capital; Section 18-7.1, Land use assessment; Section 18-7.2, Refund of levies erroneously paid; Section 18-7.3, Penalties for late application or filing; Section 18-7.4, Penalties and interest for late payment of taxes; and Section 18-12, Application.

Chapter 18. Taxation

Article I. In General

Section 18-1. General retail sales tax levied.

Pursuant to Section 58.1-605 of the Code of Virginia, a county general retail sales tax at the rate of one per cent to provide revenue for the general fund for the county is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by Chapter 6, Title 58.1 of the Code of Virginia. It shall be subject to all provisions of Chapter 6 of Title 58.1 of the Code of Virginia, all the amendments thereto, and the rules and regulations published with respect thereto. Therefore, the purpose of this section is to impose the general retail sales tax authorized by Section 58.1-605 of the Code of Virginia.

Pursuant to the provisions of Section 58.1-605(D) of the Code of Virginia, the county general retail sales tax levied pursuant to this section shall be administered and collected by the state tax commissioner of the Commonwealth of Virginia in the same manner, and subject to the same penalties, as provided for the state sales tax, with the adjustments required by Section 58.1-628 of the Code of Virginia. (5-31-66).

Editor's note--The ordinance here codified was adopted in conformity with Code of Virginia, Section 58.1-605, and a certified copy thereof was transmitted to the state tax commissioner so as to have been received within five days after its adoption.

State law reference--Virginia Sales and Use Tax Law, Code of Virginia, Section 58.1-600 et seq.

Section 18-2. Use tax imposed.

Pursuant to Section 58.1-606 of the Code of Virginia, the board of supervisors hereby resolves to impose, and there is hereby imposed, in the county a local county use tax at the rate of one per cent to provide revenue for the general fund of the county. Such county use tax shall be added to the rate of the state use tax imposed by Chapter 6, Title 58.1, of the Code of Virginia, and shall be subject to all the provisions of that chapter, and all amendments thereof, and the rules and regulations published with respect thereto. Therefore, the purpose of this section is to impose the local use tax authorized by Section 58.1-606 of the Code of Virginia. (3-29-68, Section 1)

Editor's note--The resolution here codified was adopted in conformity with subsection (b)(1) of Section 58.1-606 of the Code of Virginia, and a certified copy thereof was transmitted to the state tax commissioner so as to have been received within five days after its adoption.

State law reference--Virginia Sales and Use Tax Law, Code of Virginia, Section 58.1-600 et seq.

Section 18-2.1. Local exemption of certain energy sources.

Notwithstanding the provisions of Section 18-1, "General retail sales tax," and notwithstanding the provisions of Section 18-2, "Use tax," and pursuant to Section 58.1-608(9) of the Code of Virginia, effective January 1, 1982, the board of supervisors hereby exempts from both the general retail sales tax and the use tax, the following: Artificial or propane gas, firewood, coal, or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. (Ord. No. 136A-1, 11-16-81)

Section 18-3. Recordation tax imposed.

Pursuant to the authority of Sections 58.1-814 and 58.1-3800 et seq. of the Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county, in the amount of one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in the county, excepting such instruments as are exempted by Section 58.1-811 of the Code of Virginia. (This tax will be collected by the clerk of the circuit court for the City of Williamsburg and County of James City, Virginia, and paid monthly to the treasurer of the county, pursuant to law.) (8-31-64)

State law reference--Recordation taxes generally, Code of Virginia, Section 58.1-800 et seq.

Section 18-4. Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment.

The board of supervisors hereby resolves that all new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the commissioner of the revenue of the county shall enter in the books the fair market value of such building. No partial assessment as

provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this section after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year. (1-5-59; Ord. No. 41A-1, 12-11-78)

State law reference—Code of Virginia, Section 58.1-3292.

Section 18-5. Tax on bank net capital.

(a) Definitions. For the purposes of this section the following words shall have the meanings ascribed to them by this subsection:

- (1) "Bank" shall be as defined in Section 58.1-1201 of the Code of Virginia.
 - (2) "Net capital" shall mean a bank's net capital computed pursuant to Section 58.1-1205 of the Code of Virginia.
- (b) Imposition of county bank franchise tax.

- (1) Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this county, a tax on net capital equalling eighty (80) per cent of the state rate of franchise tax set forth in Section 58.1-1204 of the Code of Virginia.
- (2) In the event that any bank located within the boundaries of this county also has offices that are located outside the boundaries of the county, the tax shall be apportioned as provided by Section 58.1-1211 of the Code of Virginia.

(c) Filing of return and payment of tax.

- (1) On or after the first day of January of each year, but not later than March 1st of any such year, all banks whose principal offices are located within this county shall prepare and file with the commissioner of the revenue a return as provided by Section 58.1-1207 of the Code of Virginia, in duplicate, which shall set forth the tax on net capital computed pursuant to Section 58.1-1205 of the Code of Virginia. The commissioner of the revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.
- (2) In the event that the principal office of a bank is located outside the boundaries of this county and such bank has branch offices located within this county, in addition to filing requirements set forth in (c)(1) above, any bank conducting such branch business shall file with the commissioner of the revenue a copy of the real estate deduction schedule apportionment and other items which are required by Sections 58.1-1207, 58.1-1212 and 58.1-1213 of the Code of Virginia.
- (3) Each bank, on or before the first day of June of each year, shall pay all taxes imposed pursuant to this section.

(d) Effective date of section. The provisions of this section shall be effective for the year beginning January 1, 1980.

(e) Penalty upon bank for failure to comply with section. Any bank which fails to file a return or pay the state tax required by this chapter or fails to comply with any other provision of this chapter shall be subject to a penalty of five percent of the tax due. If the Commissioner is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with Section 58.1-15 of the Code of Virginia. (Ord. No. 136, 4-14-80)

Editor's note—Ord. No. 136 repealed former Sections 18-5--18-7, pertaining to bank stock tax, derived from Ord. of July 10, 1961, Sections 1--3, and enacted in lieu thereof a new Section 18-5 as herein set out.

Sec. 18-7.1 Land use assessment.

The County of James City declares that the preservation of real estate devoted to agricultural, horticultural or forestry uses within its boundaries is in the public interest; and therefore, such qualifying real estate shall be taxed in accordance with the provisions of Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia, 1950, as amended, (hereinafter referred to as the Code) and pursuant to the terms of this section.

(1) Application by property owner of any real estate.

- (a) The owner as defined in Section 58.1-3234 of the Code, meeting the criteria set forth in Sections 58.1-3230 and 58.1-3233 of the Code, may on or before November 1st, of each year, apply to the commissioner of the revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Section 58.1-3236 of the Code. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue.
- (b) Each application shall be accompanied by a fee of ten dollars (\$10.00) per parcel plus ten cents (\$0.10) per acre or portion thereof contained in such parcel. For purposes of this paragraph contiguous parcels owned by the same applicant or applicants shall be treated as a single application.
- (c) A separate application shall be filed for each parcel listed in the land book.
- (d) No fee shall be levied for those reapplications by the same owner made in subsequent years for property previously processed under this section.

(2) Valuation of real estate. Upon receipt of any application, the commissioner of the revenue shall determine whether the subject property meets the criteria for taxation of agricultural, horticultural or forestry land under Section 58.1-3236 of the Code. If the commissioner of the revenue determines that the subject property does not meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value, such qualifying use to be determined as follows:

- (a) In addition to use of his personal knowledge, judgment and experience as to the value of agricultural, horticultural or forestry real estate, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural or forestry capability and the recommendation of value of such real estate as made by the state land evaluation advisory committee.

- (b) In determining whether the subject property meets the criteria for "agricultural use", "horticultural use" or "forestry use" the commissioner of the revenue may request an opinion from the commissioner of agriculture and commerce for the first two (2) categories and the director of the conservation and economic development for the last category. Upon the refusal of the commissioner to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the director, the party aggrieved may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this section.
- (c) The use and fair market value of any qualifying property shall be placed in the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.
- (3) Change in use of real estate assessed; roll-back taxes.
- (a) There is hereby imposed a roll-back tax, with interest thereon, in such amounts as may be determined under Section 58.1-3237 of the Code upon any property as to which the use changes from a qualifying to a nonqualifying use.
- (b) The owner of any real estate liable for roll-back taxes shall report to the commissioner of the revenue on forms to be prescribed, any change in the use of such property to a nonqualifying use and shall pay the roll-back tax then due.
- (4) Failure to report change in use; misstatements in applications.
- (a) On failure to report and pay within sixty (60) days following such change in use, such owner shall be liable for an additional penalty equal to twenty-five (25) per centum of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half per centum of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure to comply continues.
- (b) Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of one hundred (100) per centum of such unpaid taxes.
- (5) The provisions of Title 58.1 of the Code applicable to local levies and real estate assessments and taxation with the necessary changes, including, without limitation; provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.
(8-12-74; 9-8-75; Ord. No. 80A-2, 7-10-78; Ord. No. 80A-3, 12-11-78)

State law reference - Code of Virginia, Section 58.1-3229 et seq.

Sec. 18-7.2. Refund of levies erroneously paid.

Pursuant to Section 58.1-3990 of the Code of Virginia, 1950, as amended, the board of supervisors hereby provides for the refund of any local levies erroneously assessed on tangible personal property, machinery and tools, or merchant's capital, or a local license tax or real estate.

If upon application, the commissioner of the revenue is satisfied that he or his predecessor in office has erroneously assessed such applicant with any local levies as provided herein, he shall certify to the tax-collecting officer the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from so much thereof as is erroneous, and if such levies have been paid, the tax collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

No refund shall be made in any case when application therefor was made more than three (3) years after the last day of the tax year for which such taxes were assessed; provided, that if any tax is declared to be unconstitutional by a court of competent jurisdiction, the board of supervisors shall grant a refund of such tax hereunder to all taxpayers for those years to which the court proceeding was applicable. (9-13-76; Ord. No. 96A-1, 11-16-83)

Section 18-7.3. Penalties for late application or filing.

Pursuant to Section 58.1-3916 of the Code of Virginia, 1950, as amended, the board of supervisors hereby imposes the following penalties for failure to file applications for local license taxes and returns for personal property taxes. Each person failing to file an application or return for county levies on or before the first day of May shall incur a penalty thereon of ten (10) per cent or ten dollars (\$10.00), whichever shall be the greater. Said penalty shall be added to the amount due from such taxpayer on the day after such return or application is due and said penalty shall be accounted for in the settlement when the tax is collected by the treasurer; provided, however, that no penalty shall be incurred for failure to file a return for personal property taxes if such failure was not in any way the fault of the taxpayer.

The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make an application for a local license as required by section 9-4 of this Code. (Ord. No. 125, 12-11-78)

Section 18-7.4. Penalties and interest for late payment of taxes.

Pursuant to Section 58.1-3915, 58.1-3916 of the Code of Virginia, 1950, as amended, the board of supervisors hereby imposes the following penalties and interest for the late payment of county levies. Each person failing to remit county levies on or before the fifth day of December shall incur a penalty thereon of ten (10) per cent or ten dollars (\$10.00), whichever is greater, which shall be added to the amount due from such person, which, when collected by the treasurer, shall be accounted for in said person's settlements; in addition thereto interest in the amount of eight (8) per cent per annum shall commence the first day of the month following the month in which such taxes are due. (Ord. No. 126, 12-11-78)

Article II. Exemption of Certain Persons from Real Estate Taxes

Section 18-12. Application.

Any person or persons claiming such exemption shall file annually with the commissioner of revenue of the county, on forms to be supplied by the county, an affidavit setting forth the names of the related persons occupying such real estate; provided, that the total combined net worth, including equitable interests and the combined income from all sources, of the person or persons as specified in section 18-10 does not exceed the limits prescribed in this article.

If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the social security administration, veterans administration or railroad retirement board, or if such person is not

eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the commonwealth, to the effect that such person is permanently and totally disabled, as defined in section 18-9, and that at least one of the medical doctors has physically examined the applicant.

Such affidavit shall be filed on or after the first day of January, but not later than the first day of April of each year in which an exemption is sought except that the commissioner of revenue is authorized to accept affidavits until the first day of June for first-time applicants or in the case of hardships.

The commissioner of revenue shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to determine qualifications therefor as specified in this article. In addition, certified tax returns shall be produced by the applicant to establish income or financial worth.

Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for the then current taxable year and the taxable year immediately following. A qualified applicant shall not be deemed to have violated any limitation or condition if said applicant is confined to a nursing home or hospital and the property is not used by or leased to others for consideration. (3-12-73, Sections 4-1-4-4; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

State law reference—Code of Virginia, Section 58.1-3213.

ADOPTED

ORDINANCE NO. 107A-3

DEC 1 1980

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING THAT THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BE AMENDED BY ADDING AN ARTICLE TO BE NUMBERED CHAPTER 18, TAXATION, ARTICLE V, SPECIAL TAX FOR ENHANCED 911 EMERGENCY TELEPHONE SYSTEM.

BE IT ORDAINED that Chapter 18, Taxation, Article V, Special Tax for Enhanced 911 Emergency Telephone System, Section 18-25, Tax imposed; and Section 18-26, Collection and disposition, be enacted as follows:

Chapter 18. Taxation

Article V. Special Tax for Enhanced 911 Emergency Telephone System

Section 18-25. Tax imposed.

Pursuant to the provisions of section 58.1-3813 of the Code of Virginia, there is hereby imposed a special tax of sixty-five cents (\$0.65) per month on each consumer of telephone service for each telephone line provided by any corporation subject to the provisions of Chapter 26, of Title 58.1 of the Code of Virginia; provided, however, that this tax is not imposed on federal, state or local government agencies.

Section 18-26. Collection and disposition.

The tax payable each month shall be added to monthly statements tendered for telephone service and shall be paid to the company tendering the statement; the telephone company shall monthly make remittance of the taxes collected to the treasurer of the county.

ORDINANCE NO. 65A-3

DECEMBER 1965

BO. SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19A, WETLANDS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 19A-2, DEFINITIONS; SECTION 19A-6, PUBLIC HEARING; AND SECTION 19A-7, WETLANDS BOARD ACTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19A, Wetlands, is hereby amended and reordained by amending Section 19A-2, Definitions; Section 19A-6, Public hearing; and Section 19A-7, Wetlands board action.

Chapter 19A. Wetlands

Article I. In General

Section 19A-2. Definitions.

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

Commission. The state marine resources commission.

Commissioner. The commissioner of marine resources.

Governmental activity. Any or all of the services provided by this county to its citizens for the purpose of maintaining public facilities and shall include, but shall not be limited to, such services as constructing, repairing and maintaining roads, sewage facilities, supplying and treating water, street lights and construction of public buildings.

Nonvegetated wetlands. All that land lying contiguous to mean low water and which land is between mean low water and mean high water not otherwise included in the term "vegetated wetlands" as defined herein.

Person. Any corporation, association or partnership, one or more individuals or any unit of government or agency thereof.

Vegetated Wetlands. All that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this county; and upon which is growing on the effective date of this act or grown thereon subsequent thereto, any one or more of the following: Saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scripus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattails (*Typha* spp.), three-squares (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), Black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweeds (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), and switch grass (*Panicum virgatum*).

Wetlands. All vegetated and nonvegetated wetlands.

Wetlands board or board. A board created as provided in Section 62.1-13.6 of the Code of Virginia. (9-11-72, Section 2; Ord. No. 65A-2, 12-13-82)

Section 19A-6. Public hearing.

Not later than sixty (60) days after receipt of such application, the wetlands board shall hold a public hearing on such application. The applicant, the local governing body, the commissioner, the owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Commission of Game and Inland Fisheries, water control board, the Department of Highways and Transportation and governmental agencies expressing an interest therein shall be notified by the board of the hearing by mail not less than twenty (20) days prior to the date set for the hearing. The wetlands board shall also cause notice of such hearing to be published at least once a week for two (2) weeks prior to such hearing in the newspaper having a general circulation in this county. The costs of such publication shall be paid by the applicant. (9-11-73, Section 6; Ord. No. 65A-2, 12-13-82)

Section 19A-7. Wetlands board action.

In acting on any application for a permit, the board shall grant the application upon the concurring favorable vote of three (3) members. The chairman of the board or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. Any person may appear and be heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board and the rationale for the decision. The board shall make its determination within thirty (30) days from the hearing. If the board fails to act within such time, the application shall be deemed approved. Within forty-eight (48) hours of its determination, the board shall notify the applicant and the commissioner of such determination and if the board has not made a determination, it shall notify the applicant and the commission that thirty (30) days has passed and that the application is deemed approved. The term "act" referenced above shall be the action of taking a vote on the application. If the application receives less than four concurring favorable votes, for a seven-member board and three concurring favorable votes for a five-member board, this will be a determination to deny the permit.

The board shall transmit a copy of the permit to the commissioner. If the application is reviewed or appealed, then the board shall transmit the record of its hearing to the commissioner. Upon a final determination by the commission the record shall be returned to the board. The record shall be open for public inspection at the office of the recording officer of this county. (9-11-73, Section 7; Ord. No. 65A-2, 12-13-82)

ORDINANCE NO. 31A-91

ADOPTED

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE IV, DISTRICTS, DIVISION 8; MULTI-FAMILY RESIDENTIAL DISTRICT, R-5, SECTION 20-251(s), REQUIREMENTS FOR IMPROVEMENTS AND DESIGN.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-251(s), Requirements for Improvements and Design.

CHAPTER 20. ZONING

ARTICLE IV. DISTRICTS

DIVISION 8, MULTI-FAMILY RESIDENTIAL DISTRICT, R-5

Section 20-251(s). Requirements for Improvements and Design.

- (s) The Zoning Administrator shall not issue a temporary Certificate of Occupancy or Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including but not limited to public roads, public water and public sewer facilities, shown on the revised plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the County Attorney.

ADOPTED

ORDINANCE NO. 31A-92

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE IV, DISTRICTS, DIVISION 7, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 20-215(b), APPROVAL OF MASTER PLAN; RELATIONSHIP TO FINAL PLANS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-215(b), Approval of Master Plan; Relationship to Final Plans.

CHAPTER 20. ZONING

ARTICLE IV. DISTRICTS

DIVISION 7, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4

Section 20-215(b). Approval of Master Plan; Relationship to Final Plans.

- (b) The residential planned community shall be established upon approval of the Master Plan by the Board of Supervisors. Thereafter, all amendments to the Master Plan shall be in accordance with Section 20-15 of this Chapter. Approved final plans, provided for in Section 20-216, shall supersede the Master Plan and schematic plans. The Zoning Administrator shall not issue a temporary Certificate of Occupancy or Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including but not limited to public roads, public water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the County Attorney.

ORDINANCE NO. 31A-93

ACCEPTED

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE VIII, PLANNED UNIT DEVELOPMENT DISTRICTS, SECTION 20-470(b), PROCEDURES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-470(b), Procedures.

CHAPTER 20. ZONING

ARTICLE VIII. PLANNED UNIT DEVELOPMENT DISTRICTS

Section 20-470(b). Procedures.

- (b) Consideration by the Planning Commission and Board of Supervisors. The procedures for public hearing and consideration by the Planning Commission and Board of Supervisors shall be as set forth in Section 20-15. The Board of Supervisors, if it approves the Master Plan, may impose conditions to such approval.

Upon approval of the Master Plan by the Board of Supervisors, the Planned Unit Development District is deemed established. Thereafter, all amendments to the Master Plan shall be in accord with Section 20-15 of this Chapter. The Master Plan shall guide the general location of all features shown therein, including land uses, densities, roads, public uses and other features. Approved final plans, provided for in Section 20-471, shall supersede the Master Plan and schematic plans. The Zoning Administrator shall not issue a temporary Certificate of Occupancy or Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including but not limited to public roads, public water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the County Attorney.