

Chapter 11

HEALTH AND SANITATION

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ARTICLE I. HEALTH CERTIFICATE FOR FOOD HANDLERS

Sec. 11-1. 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:
 - (1) 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, lunch rooms, 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.
 - (2) 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; Ord. No. 116A-9, 12-2-85)

Sec. 11-2. Food handler's certificate required.

Any person employed or working in any restaurant in the county must procure and hold a valid certificate bearing the holder's photograph from the health officer certifying that such person has complied with all requirements to obtain said permit and has received proper instruction in proper handling of food, personal hygiene and sanitation. (Ord. No. 117, 5-8-78)

Sec. 11-3. Issuance of food handler's certificate after tests and examinations; terms; temporary certificates.

It shall be unlawful for any person who does not possess an unexpired, unrevoked food handler's certificate as hereinafter provided to work in any restaurant in the county. Such certificate shall, in proper cases, be issued by the health officer to the applicant, who shall furnish such information and laboratory specimens and submit to

such physical examination and tests as the health officer may require and shall receive such instructions on proper food handling procedures, on personal hygiene and sanitation as may be offered by the health officer. Prior to employment by a restaurant in the county, a food handler shall register at the James City-Williamsburg Health Department and obtain a temporary food handler's certificate, which temporary certificate shall expire in not more than 30 days from the date of issue. It is expressly provided, however, that the health officer may refuse to issue a temporary food handler's certificate to any applicant if, in his opinion, the applicant may be infected with any disease which would disqualify him from receiving a regular food handler's certificate hereunder. Prior to commencing employment as a food handler or if the food handler holds a temporary food handler's certificate issued by the health officer, then prior to the expiration of the temporary certificate, the food handler shall secure a regular food handler's certificate from the health officer. Each such certificate shall remain in force for 12 months unless revoked by the health officer for cause and shall be kept properly filed in the place of employment of the holder. (Ord. No. 117, 5-8-78)

Sec. 11-4. Restaurant prohibited from hiring food handler without certificate; prohibition against allowing diseased food handlers to work.

- (a) No restaurant shall employ any person unless said person possesses a valid temporary or regular food handler's permit issued by the health officer in accordance with the provisions of this article.
- (b) No person who is infected with any disease in a communicable form, or is a carrier of any disease, shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being infected with any disease in a communicable form or being a carrier of such disease.
- (c) If the restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately.
- (d) Hand washing signs shall be posted in each toilet room used by employees. (Ord. No. 117, 5-8-78)

Sec. 11-5. Procedure when infection suspected.

If suspicion arises as to the possibility of transmission of infection from any restaurant employee, the health officer is authorized to require any or all of the following measures:

- (a) Immediate exclusion of the employee from all restaurants;
 - (b) Immediate closing of the restaurant concerned until no further danger of disease outbreak exists in the opinion of the health officer;
 - (c) Adequate medical examination of the employee and of his associates, with such laboratory examinations as may be indicated.
- (Ord. No. 117, 5-8-78)

Sec. 11-6. Waiver of requirements.

The health officer shall have authority to waive the requirements hereof for special events of a temporary nature which waiver shall be in writing. (Ord. No. 117, 5-8-78)

Sec. 11-7. Penalty for violation.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction, be fined not more than \$1,000.00 or be confined in jail for a period not exceeding six months, either or both. (Ord. No. 117, 5-8-78)

ARTICLE II. LANDFILL ORDINANCE

Sec. 11-8. In general.

(a) *Policy.* The purpose of this article is to ensure the proper disposal of solid wastes within James City County, including wastes from households, commercial establishments, manufacturing, industry and institutions, and to implement the provisions of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) and the Solid Waste Regulations of the Commonwealth of Virginia. It shall be the official policy of the county to encourage the conservation (recycling/reuse) of recoverable resources from solid wastes by the industries, businesses and citizens of the county.

(b) *Definitions.* For purposes of this article, the following definitions shall apply:

- (1) *Administrator.* The county administrator or his authorized designee.
- (2) *Bulky waste.* Large items of solid waste such as household appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.
- (3) *Building and demolition debris.* The waste building material, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.
- (4) *Commercial/business refuse.* Refuse or wastes resulting from the operation of commercial or business establishments, including, but not limited to, stores, markets, offices, restaurants, shopping centers or theaters.
- (5) *Compacted refuse.* Refuse or waste which has been reduced in volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at the landfill.
- (6) *Garbage.* All vegetable and animal waste generated by the handling, storage, sale, preparation, cooking and serving of foods.
- (7) *Hazardous waste.* Refuse or waste or combinations of refuse or waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitatingly reversible, illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.
- (8) *Household refuse.* Refuse or waste resulting from residential operation.
- (9) *Industrial refuse.* Refuse or waste resulting from industrial and/or manufacturing operations.

- (10) *Institutional/governmental refuse.* Refuse or waste resulting from operations or activities of the Commonwealth of Virginia, its political subdivisions or agencies, or the United States Government.
 - (11) *Manager.* The general manager of the James City Service Authority or his authorized designee.
 - (12) *Person.* An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or the federal government.
 - (13) *Trash.* Any and all rubbish, cans, bottles, containers, paper, cardboard or other discarded material of an inorganic nature.
 - (14) *Uncompacted refuse.* Refuse or waste which has not been reduced in volume by mechanical or hydraulic means, or if so, has not been maintained in this reduced volume state during transportation to the landfill.
 - (15) *Waste generator.* The person who actually produces the commercial, household, industrial or institutional/governmental refuse intended for disposal at the landfill.
- (c) *Authority to establish landfill rules.* The manager shall be authorized to establish reasonable rules and regulations to determine the origin and type of refuse presented at the landfill for disposal.
- (d) *Disposal of refuse from outside county prohibited.* It shall be unlawful for any person to dispose of refuse originating outside the boundaries of James City County at the landfill unless an agreement exists between James City County and the jurisdiction in which the refuse originates; provided, however, James City County may enter into direct agreements with the Commonwealth of Virginia or agencies thereof located outside the boundaries of James City County for the disposal of refuse generated by the Commonwealth of Virginia or agencies thereof.
- (e) *Weighing of truck required.* It shall be unlawful for any person to dispose of refuse at the county landfill before weighing the vehicle containing said refuse, except in certain cases as described below. (Ord. No. 116A-2, 10-13-80; Ord. No. 116A-7, 3-12-84; Ord. No. 116A-14, 5-2-88; Ord. No. 116A-15, 2-6-89; Ord. No. 116A-20, 10-1-90)

Sec. 11-9. Household waste.

- (a) Individuals using an automobile, station wagon, half-ton panel truck or half-ton pickup truck, with a valid county motor vehicle tag, decal or sticker, for the purpose of disposing of household refuse at the county landfill shall not be required to pay for disposal of refuse; provided, that the refuse being disposed of was neither collected nor hauled for a fee; and provided, that certain recyclable materials have been separated by the individual prior to bringing the household refuse to the landfill for disposal. Provided, however, that the charge for loads of household waste transported in vehicles larger than a half-ton pickup truck, and meeting all other conditions above, may be waived upon application to the manager in accordance with the landfill operating procedures. The materials to be separated shall include aluminum cans, glass containers and newsprint. It shall be unlawful for an individual to dispose of household refuse from their home at the county landfill unless the specified materials have been separated. Commercial haulers, under contract with the county to service county refuse containers, shall not be required to pay for disposal of refuse collected from county refuse containers.
- (b) Commercial, industrial and governmental waste generators who bring their own refuse to the landfill and commercial refuse operators/haulers regardless of the origin of the refuse shall pay the following fees: \$47.00

per ton, computed on the basis of \$0.47 per each 20 pounds or fraction thereof. Such charge shall be computed to the next highest \$0.01. The minimum charge shall be \$3.50 per load.

Any person exempted from payment of the charge for the disposal of refuse as provided in paragraph (a) above will not be assessed any charges as provided in this paragraph.

(c) The manager may promulgate reasonable rules and regulations to permit certain materials (for example, soil or gravel) determined to be beneficial in the proper operation and maintenance of the landfill to be disposed of without charge to the hauler.

(d) Tires. Passenger car and light truck tires will be accepted for disposal at the Jolly Pond Road Convenience Center from any person, firm or corporation at a fee of \$1.00 for each tire. No tires shall be accepted without charge, except on a Tire Amnesty Day, as designated by the manager in accordance with Commonwealth of Virginia, Department of Environmental Quality regulations. The manager may at his discretion authorize the disposal of tires other than passenger car tires at a charge per tire to be determined by the manager. The charge shall be based on the cost to handle and dispose of the tires.

(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-6, 4-25-83; Ord. No. 116A-7, 3-12-84; Ord. No. 116A-8, 4-22-85; Ord. No. 116A-10, 4-21-86; Ord. No. 116A-11, 4-20-87; Ord. No. 116A-13, 4-18-88; Ord. No. 116A-16, 4-17-89; Ord. No. 116A-18, 4-16-90; Ord. No. 116A-20, 10-1-90; Ord. No. 116A-21, 5-6-91; Ord. No. 116A-22, 4-20-92; Ord. No. 116A-23, 5-4-92; Ord. No. 116A-25, 4-5-93; Ord. No. 116A-27, 5-2-94; Ord. No. 116A-28, 6-20-94)

Sec. 11-10. Industrial refuse.

(a) Prior to the acceptance of industrial refuse at the landfill, the person desiring to dispose of same shall secure a permit from the manager. Prior to the issuance of such a permit, the manager shall determine the compatibility of the specific refuse with the landfill method of disposal. In determining such compatibility, the manager shall consider disposal volume, difficulty of handling, employee safety, likelihood of equipment damage, any unusual health and environmental problems, and current state and federal regulations.

(b) The disposal charge for industrial refuse that does not require disposal in a separate location (trench) from household or commercial waste shall be assessed on the basis of the charges defined in section 11-9(b) unless covered by paragraph (d) below.

(c) The disposal charge for industrial wastes requiring separate disposal locations shall be a minimum of \$47.00 per ton but may be higher as determined by the manager. In establishing the fee for disposal of a specific waste requiring separate disposal, the manager shall determine the cost to maintain the separate disposal and for special handling requirements, the potential for damage to landfill equipment, environmental effects the refuse may have, state and federal rules and regulations regarding the waste, and other factors determined to be appropriate for the specialized handling of such waste.

(d) Separate contracts. The administrator may negotiate separate contracts for industrial refuse with large waste generators if it is determined that the volume is predictable and the wastes involved require minimal handling. Such contracts shall guarantee negotiated payments to the county annually and may be offered to generators that exceed 8,000 tons per year. No such contract shall guarantee the county less than \$376,000.00 per year.

(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-10, 4-21-86; Ord. No. 116A-11, 4-20-87; Ord. No. 116A-13, 4-18-88; Ord. No. 116A-16, 4-17-89; Ord. No. 116A-18, 4-16-90; Ord. No. 116A-20, 10-1-90; Ord. No. 116A-21, 5-6-91; Ord. No. 116A-23, 5-4-92; Ord. No. 116A-25, 4-5-93; Ord. No. 116A-27, 5-2-94)

Sec 11-10.1. Building, demolition and land clearing debris.

Building, demolition and land clearing debris wastes shall be accepted at the landfill provided all other provisions of this article have been satisfied. The charge shall be the same as in section 11-10(c).
(Ord. No. 116A-5, 5-10-82; Ord. No. 116A-7, 3-12-84)

Sec. 11-11. Institutional/governmental waste.

Institutional/governmental waste shall be accepted at the landfill, provided all other provisions of this article have been satisfied. The charge shall be the same as in section 11-9(b).
(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-7, 3-12-84)

Sec. 11-12. Prohibited waste.

(a) Refuse or wastes resulting from landfill operations, situated on other than county property and not under the supervision of the county, are declared to be incompatible with the method of landfill disposal in terms of volume, difficulty in handling and the potential for damage to equipment and as such shall not be accepted for disposal at the landfill.

(b) Materials, whether solid, liquid or gaseous, which are classified as either hazardous or told in accordance with state and federal rules and regulations are prohibited.
(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-5, 5-10-82; Ord. No. 116A-7, 3-12-84)

Sec. 11-13. User charges by volume.

(a) Should the landfill scales be inoperative, the manager shall base the charges applied upon weight data previously generated for the vehicle hauling such waste and the nature of the waste. The weight data shall consist of no fewer than 15 previous weighings by the vehicle carrying such waste and shall be modified by visual inspection if such is feasible.

(b) For vehicles for which no history of previous weight data exists as described in paragraph (a) above, the following rates shall apply:

(1) Uncompacted refuse \$4.70 per cubic yard of truck capacity.

(2) Compacted refuse, \$11.75 per cubic yard of truck capacity.

(3) The minimum fee for refuse charged for on a volume basis shall be \$3.50 per load.
(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-3, 3-23-81; Ord. No. 116A-5, 5-10-82; Ord. No. 116A-7, 3-12-84; Ord. No. 116A-11, 4-20-87; Ord. No. 116A-13, 4-18-88; Ord. No. 116A-16, 4-17-89; Ord. No. 116A-18, 4-16-90; Ord. No. 116A-21, 5-6-91; Ord. No. 116A-23, 5-4-92; Ord. No. 116A-25, 4-5-93; Ord. No. 116A-27, 5-2-94)

Sec. 11-14. County refuse containers.

Refuse containers shall be provided by the county at various locations to supplement existing private collection services as needed. The usage of said containers shall be governed by the following provisions and any other regulations as the board of supervisors or the manager may establish:

(a) *Permitted and Prohibited Use:*

- (1) *Permitted uses.* County refuse containers or dumpsters are to be used for the deposit and storage of household trash, garbage and recyclable materials only.
- (2) *Prohibited materials.* It shall be unlawful to deposit any of the following materials into county refuse containers or dumpsters:
 - a. Hazardous waste.
 - b. Commercial and industrial refuse.
 - c. Dead animals.
 - d. Waste brought in from outside James City County, unless permitted by a specific intergovernmental agreement.
- (3) *Abuse of containers and container sites.* It shall be unlawful to tamper with, overturn or otherwise damage refuse containers. Additionally, it shall be unlawful to litter container sites, create any health problems thereon or to place any refuse outside of, on top of or adjacent to any refuse container. If a container is filled, the trash must be placed in another refuse container which is not filled or taken to the county landfill site.
- (4) *Scavengers and loiterers prohibited.* It shall be unlawful for any person to engage in salvage work or to loiter on any container site owned, leased or used by the county.
- (5) *Refuse collectors.* No person engaged in the business of collecting, transporting or disposing of garbage or trash, nor any employee, agent or servant thereof, shall dispose such refuse in any county containers.
- (6) *Recycling required.* All persons using a refuse container site to dispose of their household refuse shall separate aluminum cans, glass containers, newsprint and corrugated cardboard.

(b) *Convenience Center User Fees:*

- (1) Fees will be charged for the disposal of household refuse and garbage at the county convenience centers. A fee of \$4.00 shall be imposed for up to 60 gallons of bagged household refuse or the equivalent thereof. Each additional 60 gallons or portion thereof shall be charged an additional \$4.00 fee.
- (2) The county administrator or designee shall determine the charges for bulky items, such as appliances, furniture and mattresses and box springs. A schedule of these charges shall be posted at each center and a copy provided to each site user.
- (3) The county administrator or designee shall implement a system to collect fees for Convenience Center users.

- (c) *Administration and enforcement:* The manager shall have the authority to implement and enforce the provisions herein contained and to promulgate any procedures, rules and regulations as may be deemed necessary. (Ord. No. 116A-4, 9-14-81; Ord. No. 116A-7, 3-12-84; Ord. No. 116A-12, 3-7-88; Ord. No. 116A-14, 5-2-88; Ord. No. 116A-20, 10-1-90; Ord. No. 116A-26, 8-2-93; Ord. No. 116A-31, 4-28-98; Ord. No. 116A-35, 5-11-04)

State law reference - Code of Va., § 15.2-928.

Sec. 11-15. Billing procedure.

(a) *Rendition of bills by manager; authority to promulgate procedures.* The manager shall render bills monthly for service charges under this article. The manager shall promulgate procedures for the handling of billings under this article.

(b) *Payment of bills, delinquent charges, discontinuance of services.* Bills rendered under this article are due and payable at the office of the treasurer upon presentment and shall be considered delinquent if not paid within 30 days of the date issued. If any bill is not paid within such thirty-day period, an additional charge of one percent per billing period on the unpaid charges shall be added thereto and collected therewith to cover cost collection. The manager or his designee shall refuse to dispose of any refuse brought to the landfill by any delinquent person after giving five days' written notice thereof.

(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-4, 9-14-81; Ord. No. 116A-7, 3-12-84; Ord. No. 116A-14, 5-2-88)

Sec. 11-16. Violation.

Any person who shall violate a provision of this article shall be of a misdemeanor, and upon conviction shall be subject to a fine not exceeding \$1,000.00 or 30 days imprisonment, or both, for each violation.

(Ord. No. 116A-2, 10-13-80; Ord. No. 116A-4, 9-14-81; Ord. No. 116A-7, 3-12-84)

ARTICLE III. SWIMMING POOLS*

Sec. 11-17. Purpose of article.

The purpose of this article is to protect the health, safety and general welfare by regulating minimum sanitation and water quality standards and requiring safety equipment for all swimming pools, except for private residential swimming pools and those swimming pools, including pools located at hotels, motels and campgrounds, which are regulated by the Virginia Department of Health.

(Ord. No. 116A-17, 5-1-89)

Sec. 11-18. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them by this section:

Director. The director of code compliance for James City County or his designee.

Operator or manager. The individual responsible for the operation and management of the swimming pool.

Person. Any person, firm, partnership, association, corporation, company, governmental agency, club, school or organization of any kind, and any employee, agent or servant thereof.

*Cross reference-Building regulations, Ch. 4.

Private residential swimming pool. Any swimming pool located on private residential property, under the control of the residents, the use of which is limited to swimming or bathing by members of the residents' family or their invited guests.

Public swimming pool. Any swimming pool used or intended to be used collectively by numbers of persons for swimming or wading, operated by any person, whether he be owner, lessee, operator or concessionaire, regardless of whether a fee is charged for such use, including, but not limited to, a swimming pool owned by or operated for the convenience of a private club, civic club, association, apartment complex or manufactured home park. Public swimming pools shall not include private residential swimming pools or those swimming pools, including pools at hotels, motels and campgrounds, which are regulated by the Virginia Department of Health.

Swimming pool. Any swimming, wading or spray pool, including all appurtenant equipment, structures and facilities, used for the purpose of providing a swimming or wading place for any person. (Ord. No. 116A-17, 5-1-89)

Sec. 11-19. Pool operation and maintenance.

(a) *Water supply.* All water used in public swimming pools shall be from potable sources that are approved by the director of code compliance. No piping arrangements shall exist which will permit sewage or wastewater to enter the swimming pool system.

(b) *Chemical testing equipment.* Each public swimming pool shall be provided with satisfactory equipment for the determination of hydrogen-ion concentration (pH) ranging from 6.8 to 8. Satisfactory equipment shall also be provided for determination of residual chlorine content ranging from 0 to 1.0 ppm.

(c) *Disinfection.* The treatment system of all public swimming pools shall be operated at all times when the pool is in use so as to maintain either a free chlorine residual content of not less than 0.5 ppm at all points throughout the swimming pool, or adequate disinfection by chemicals at such other levels as approved by the director of code compliance.

(d) *Alkalinity.* Acid/alkalinity of the water in public swimming pools, at all times when the pool is in use, shall be not less than a pH of 7.0.

(e) *Operating records.* Daily records of the operation of public swimming pools shall be maintained by the operator. These records shall indicate pH and chlorine levels, water clarity and cleanliness, and such other information as may be required by the director of code compliance to determine if the pool is being operated in a healthy and safe manner. These records shall be kept on file for a period of at least one year.

(f) *Filtration.* Filters designed to clear the pool water shall be operated 24 hours per day each day the public swimming pool is in use. At all times when the pool is open, the water shall be sufficiently clear to permit a disc six inches in diameter, divided into alternate black and white quadrants, when placed on the bottom of the pool at the deepest point, to be clearly visible from the swimming pool deck. The filter requirement may be waived by the director of code compliance for pools in which water depth is no greater than two feet upon a determination that alternate methods are being utilized to maintain the water clarity.

(g) *Lifesaving equipment.* The operator of any public swimming pool shall provide minimum lifesaving equipment consisting of either a "shepherd's crook" or a "throw ring" with rope attached, capable of reaching across half the width of the pool. The director of code compliance may, in writing, require additional lifesaving

equipment, when such is deemed necessary because of the size of the pool or activity therein. (Ord. No. 116A-17, 5-1-89)

Sec. 11-20. Inspection.

The operator or person in charge of any public swimming pool shall, upon request of the director of code compliance, permit access to all parts of the establishment at all reasonable times for the purpose of inspection. (Ord. No. 116A-17, 5-1-89)

Sec. 11-21. Authority to order pools closed.

When the director of code compliance finds a violation of this article or any other condition that endangers the health or safety of the users of a public swimming pool, the director may order the pool closed until such condition is corrected. Failure to immediately close the pool shall be a violation of this article. (Ord. No. 116A-17, 5-1-89)

Sec. 11-22. Penalty for violation.

Any person who shall violate a provision of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not exceeding \$1,000.00 or 30 days' imprisonment, or both, for each violation. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense. (Ord. No. 116A-17, 5-1-89)

Secs. 11-23 - 11-24. Reserved.

ARTICLE IV. SMOKING

Sec. 11-25. Purpose and intent.

Based on a substantial body of scientific evidence and on the 1986 Report of the Surgeon General entitled, "The Health Consequences of Involuntary Smoking," James City County hereby acknowledges that passively inhaled tobacco smoke poses a potential health hazard. The purpose of this article is to protect the public health, safety and welfare by regulating the smoking of tobacco in designated public places and places of employment in a manner that recognizes the competing interests of smokers and nonsmokers, and the burdens imposed on persons in control of regulated places. The regulations contained herein are intended to be viewed as minimum standards and shall not be construed as limiting, in any manner, the authority of persons in control of public places or places of employment to implement more stringent standards applicable to the particular establishment or place of employment. (Ord. No. 116A-19, 9-4-90)

Sec. 11-26. Definitions.

The following words and phrases shall, for purposes of this article, have the meanings respectively ascribed to them:

Bar or lounge area. Any establishment or portion thereof where one can consume alcoholic beverages and/or hor d'oeuvres, but excluding any such establishment having tables or seating facilities where, in consideration for payment, meals are served.

Educational facility. Any building used for instruction of enrolled students, including, but not limited to, any day care center, nursery school, public or private school, college, university, medical school, law school or vocational school.

Health care facility. Any office, institution, building or agency required to be licensed under Virginia law, including, but not limited to, hospitals, clinics, nursing homes, homes for the aging or chronically ill, supervised living facilities, or ambulatory medical and surgical centers.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Private work place. Any office or work area which is not open to the public in the normal course of business except by individual invitation.

Proprietor. The owner or lessee of the public place who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, partnerships and individuals.

Public conveyance or public vehicle. Any air, land or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including, but not limited to, any airplane, train, bus or boat that is not subject to federal smoking regulations.

Public place. Any enclosed, indoor area used by the general public, including, but not limited to any building owned or leased by the commonwealth or any agency thereof or any county, city or town, public conveyance or public vehicle, restaurant, educational facility, hospital, nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

Restaurant. Any building, structure or area where food is available for eating on the premises, in consideration for payment, having seating for 50 or more patrons, excluding any seats in a bar or lounge area or seats in any separate room of a restaurant which is used exclusively for private functions.

Smoke or smoking. The carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling or exhaling of a pipe, cigar or cigarette of any kind.

Theater. Any indoor facility or auditorium open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture or other similar performance. (Ord. No. 116A-19, 9-4-90)

Sec. 11-27. Smoking prohibited in certain public places.

- (a) It shall be unlawful for any person to smoke in any of the following public places:
 - (1) Elevators, regardless of capacity;
 - (2) Indoor service lines and cashier areas;

- (3) Common areas in educational facilities, including, but not limited to, classrooms, hallways, libraries, auditoriums, public meeting rooms and other facilities;
 - (4) Hospital emergency rooms;
 - (5) Local or district health departments;
 - (6) Designated no smoking areas in any buildings owned or leased by the commonwealth or any agency thereof, the county, the school board or the James City Service Authority;
 - (7) Polling rooms; and
 - (8) School buses and other public conveyances or public vehicles.
- (b) The proprietor or manager shall designate reasonable no smoking areas, considering nature of the use and size of the building, in the following places:
- (1) Retail and service establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores and shoe stores;
 - (2) Rooms in which a public meeting or hearing is being held;
 - (3) Places of entertainment and cultural facilities, including, but not limited to, theaters, concert halls, gymnasiums, auditoriums, other enclosed arenas, art galleries, libraries and museums;
 - (4) Indoor facilities used for recreational purposes;
 - (5) Other public places; and
 - (6) Any restaurant as defined in this article.
- (Ord. No. 116A-19, 9-4-90)

Sec. 11-28. Designated smoking areas.

The proprietor or person who manages or otherwise controls any building, structure, space, place or area governed by this article in which smoking is not otherwise prohibited may designate rooms or areas in which smoking is permitted as follows:

- (1) Designated smoking areas shall not encompass so much of the building, structure, space, place or area open to the public that reasonable no smoking areas, considering the nature of the use and size of the building, are not provided;
 - (2) Designated smoking areas shall be separated to the extent reasonably practical from those rooms or areas entered by the public in the normal use of the particular business or institution; and
 - (3) In designated smoking areas, ventilation systems and existing physical barriers shall be used when reasonably practical to minimize the permeation of smoke into no smoking areas. However, this article shall not be construed as requiring physical modifications or alterations to any structure.
- (Ord. No. 116A-19, 9-4-90)

Sec. 11-29. Where smoking is not regulated.

This article is not intended to regulate smoking in the following places or under the following conditions:

- (1) Bars and lounge areas;
- (2) Retail tobacco stores;
- (3) Restaurants, conference or meeting rooms, and public or private assembly rooms while these places are being used exclusively for private functions;
- (4) Office or work areas which are not entered by the public in the normal course of business or use of the premises;
- (5) Areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another, and that consist primarily of walkways and seating accommodations; and
- (6) Lobby areas of hotels, motels and other establishments open to the public for overnight accommodation.

(Ord. No. 116A-19, 9-4-90)

Sec. 11-30. Posting of signs.

(a) Any person who owns, manages or otherwise controls any building or area in which smoking is regulated by this article shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking" (or a sign displaying the international "No Smoking" symbol, consisting of a pictorial representative of a burning cigarette enclosed in a red circle with a red bar across it). Restaurants subject to the provisions of this article shall post signs conspicuous to public view at or near each public entrance stating "No Smoking" or "No-Smoking Section Available." Print on such signs shall be at least one inch in height and the international symbol, if used, shall have a circle of at least four inches in diameter.

(b) "No Smoking" signs may, but are not required to, contain language that smoking is prohibited by ordinance and that violation of the no smoking prohibition is a violation punishable by a fine of \$25.00. (Ord. No. 116A-19, 9-4-90; Ord. No. 116A-24, 2-1-93)

Sec. 11-31. Regulation of smoking in private places of employment.

(a) Any employer who owns or operates a business in the county may regulate smoking in the work place, provided:

- (1) Such regulation does not violate the provisions of any written agreement between employer and employees; and
- (2) A total ban on smoking shall not be enforced by the employer unless a majority of the affected employees vote to approve the ban or such ban is prior condition of employment in an employment contract.

(b) This article shall not affect no-smoking policies established by employers prior to the effective date of this article. (Ord. No. 116A-19, 9-4-90)

Sec. 11-32. Violations and penalties.

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the prohibitions or restrictions of this article to fail to comply with its provisions. Any person who violates the provisions of this article shall be subject to a civil penalty of \$25.00.

(b) It shall be unlawful for any person to smoke in any area prohibited or restricted by the provisions of this article. Any person who continues to smoke in a no-smoking area after being asked to refrain from smoking shall be subject to a civil penalty of \$25.00. (Ord. No. 116A-19, 9-4-90)

Sec. 11-33. Enforcement.

(a) Any citizen who desires to register a complaint under this article may contact the police department or office of code compliance who may initiate civil enforcement.

(b) The director of code compliance or duly authorized designee shall perform an evaluation for compliance with all requirements of this article while an establishment is undergoing otherwise mandated inspections. The director of code compliance or duly authorized designee may issue a civil summons for any violation under section 11-32(a).

© The police department may issue a civil summons for any violation under section 11-32(b). (Ord. No. 116A-19, 9-4-90; Ord. No. 116A-24, 2-1-93)

Sec. 11-34. Other applicable laws and policies.

This article shall not be interpreted or construed to permit smoking where it is otherwise prohibited or restricted by other applicable statutes and ordinances, or the policies of individual establishments. (Ord. No. 116A-19, 9-4-90)

Sec. 11-35. Severability.

If any part, section, subsection, sentence, clause or phrase of this article is for any reason declared to be unconstitutional or invalid, such judicial decision shall not affect the validity of the remaining portions of this article. (Ord. No. 116A-19, 9-4-90)

Secs. 11-36 - 11-40. Reserved.

ARTICLE V. CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION

Sec. 11-41. Short title.

This article shall be known and may be cited as the "Cross-Connection and Backflow Prevention Ordinance."
(Ord. No. 116A-29, 8-13-96)

Sec. 11-42. Purpose of article.

The purposes of this article are to:

- (a) Protect the public water of James City County from the possibility of contamination by isolating, within its customers' private water systems, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross-connections into the public water system;
- (b) Eliminate or control existing cross-connections, actual or potential, at each water outlet from the consumer's waterline;
- (c) Provide a continuing inspection program of cross-connection control which will systematically and effectively control all actual or potential cross-connections in the future.

(Ord. No. 116A-29, 8-13-96)

Sec. 11-43. Authority for article.

This article provides for establishment and enforcement of a program of cross-connection control and backflow prevention in accordance with part II, article 3, Cross Connection Control and Backflow Prevention in Waterworks of the Commonwealth of Virginia, State Board of Health, Waterworks Regulations 1993, as amended.

(Ord. No. 116A-29, 8-13-96)

Sec. 11-44. Violations of article.

Any water supply system owner found to be in violation of any provision of this article shall be served a written notice of violation sent certified mail to the water supply system owner's last known address, stating the nature of the violation, corrective action required and providing a reasonable time limit, not to exceed 30 days from the date of receipt of the notice of violation, to bring the water supply system into compliance with this article. Any owner of properties served by a connection to the waterworks found guilty of violating any of the provisions of this article, or any written order of the general manager in pursuance thereof, may be charged with a Class 1 misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500.00 or more than \$1,000.00 for each violation. Each day upon which a violation of the provisions of this article shall occur shall be deemed a separate and additional violation for the purposes of this article.

(Ord. No. 116A-29, 8-13-96)

Sec. 11-45. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Backflow prevention device. Any device, method, or type of construction, approved by the general manager of the James City Service Authority, intended to prevent backflow into the waterworks.

Consumer's water system. Any water system located on the consumer's premises, supplied by, or in any manner connected to, the waterworks.

Cross-connection. Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard. The level of health hazard, as derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks. The degrees are high, moderate, and low.

Premises. A piece of real estate; house or building and its land.

Service connection. The point of delivery of water to a customer's building service line as follows:

- (a) If a meter is installed, the service connection is the downstream side of the meter.
- (b) If a meter is not installed, the service connection is the point of connection to the waterworks.
- (c) When the water purveyor is also the building owner, the service connection is the entry point to the building.

Water supply. The waters that shall have been taken into the waterworks from all wells, streams, springs, lakes, and other bodies of surface water (natural or impounded), and the tributaries thereto, and all impounded groundwater, but the term "water supply" shall not include any waters above the point of intake of such waterworks.

Water supply system. The water service pipes, water distributing pipes, and necessary connecting pipes, fittings, valves, and all appurtenances beyond the waterwork's service connection.

Waterworks. A system that serves piped water for drinking or domestic use to:

- (1) The public;
- (2) At least 15 connections; or
- (3) An average of 25 individuals for at least 60 days out of the year.

The term "waterworks" shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

(Ord. No. 116A-29, 8-13-96)

Sec. 11-46. Inspection requirements.

Testing and inspection schedules shall be established by the general manager as outlined in the program for all backflow prevention devices. The interval between testing and inspections and overhauls of each device shall be established in accordance with the type and condition of the device and the device manufacturer's recommendations. Inspection and testing intervals shall not exceed one year unless otherwise established by the general manager based on the degree of hazard, and overhaul intervals shall not exceed five years unless otherwise noted in the program. Repairs and overhauls shall use the device manufacturer's parts kit. (Ord. No. 116A-29, 8-13-96)

Secs. 11-47 - 11-50. Reserved.

ARTICLE VI. DROUGHT MANAGEMENT

Sec. 11-51. Short title.

This Article shall be known and may be cited as the Drought Management Ordinance. (Ord. No. 116A-30, 8-13-96)

Sec. 11-52. Authority to declare a potential shortage of water and to impose water conservation measures.

The county administrator is authorized to take special measures of prudent management to prevent a critical water shortage when a potential shortage and/or emergency condition exists in James City County's water system(s). (Ord. No. 116A-30, 8-13-96)

Sec. 11-53. Conditions for the declaration of potential shortage of water.

Upon a determination by the county administrator of the existence of the following conditions, the county administrator shall take the following actions:

- (a) *Stage I.* When one or more of the parameters described in section 33.B.5(a) of the Water Conservation and Drought Management Plan (plan) adopted by the James City Service Authority (JCSA) are met, the county administrator shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by the means described in section 33.B.7(a) of the plan.
- (b) *Stage II.* When one or more of the parameters described in section 33.B.5(b) of the plan adopted by the JCSA are met, the county administrator shall institute mandatory restrictions on the use of groundwater, whether public or private, by all residents of the county. Such restrictions include, but are not limited to, those restrictions applicable to Stage II as well as reductions of water to each customer as described in section 33.B.7(b) of the plan. This provision shall not apply to well water used for agricultural purposes..
- (c) *Stage III.* When one or more of the parameters described in section 33.B.5(c) of the plan adopted by the JCSA are met, the county administrator shall institute mandatory reductions on each customer which include, but are not limited to, those restrictions applicable to Stage II as well as reductions of water to each customer as described in section 33.B.7(c) of the plan.

The county administrator or his designee may authorize exceptions to the restrictions imposed by Stages I and II.

- (d) *Stage IV.* When Stage III has been in effect for 30 days and demand has not stabilized at the Stage III trigger level or has not declined, the board of supervisors, county administrator, or his designee may implement additional restrictions as are determined necessary.

The county administrator may revoke water conservation and drought management efforts earlier than prescribed in the plan if deemed appropriate.
(Ord. No. 116A-30, 8-13-96; Ord. No. 116A-32, 6-23-98; Ord. No. 116A-37; 3-22-05)

Sec. 11-54. Violation of Stage III water restrictions.

Upon implementation of Stage III, the board of supervisors, county administrator, or his designee may impose appropriate fines and penalties for excess water usage. The additional charges for excess water usage shall be applicable to bills for service periods beginning on or after the declaration that a potential shortage of water exists.

(Ord. No. 116A-30, 8-13-96)

Sec. 11-55. Notice to the public.

The determination of Stages II, III, and IV by the board of supervisors, county administrator, or his designee shall be accompanied by a written report which shall set out the criteria utilized and data relied upon in making such determination including a narrative summary reporting the determination. Each report shall be promptly filed with the county clerk, who shall make the same available for public inspection. The county clerk shall transmit a copy of each report to the board of supervisors.

(Ord. No. 116A-30, 8-13-96)

Sec. 11-56. Appeals.

An appeal review board shall be established upon declaration of Stage II. It shall be composed of three members appointed by the board of supervisors. One of the three members shall be a representative of the James City Service Authority. The appeals board shall hear appeals from determinations as to allocation of water and additional charges of excessive usage and shall have the power by the vote of two members to approve, modify, or revoke such determinations. The action of the appeals review board shall be final.

(Ord. No. 116A-30, 8-13-96)

Sec. 11-57. Repeal of other county ordinances.

All other county ordinances inconsistent with this article are hereby repealed; provided, however, that no enforcement action or prosecution of any sort now pending shall be abated because of the adoption of this article.

(Ord. No. 116A-30, 8-13-96)

Secs. 11-58 - 11-64. Reserved.

Supp. No. 17, 6-05

ARTICLE VII. OUTDOOR WATER USE

Sec. 11-65. Restrictions on outdoor water use.

In order to protect the public health, safety and welfare and insure the integrity of the James City Service Authority water system, during the period beginning May 1 and ending September 30 of each year, outdoor use of James City Service Authority water is prohibited, except that properties with even-numbered street addresses can use water outdoors on Tuesdays, Thursdays and Saturdays and properties with odd-numbered street addresses can use water outdoors on Wednesdays, Fridays and Sundays provided that outdoor water use occurs between the hours of midnight and 9:00 a.m. and 5:00 p.m. and midnight. No outdoor water use shall occur on Mondays except as provided below in subparagraph (d). For the purpose of this section, the last whole number of a property address shall be used to determine whether the property address is odd or even. All street addresses on a lot or parcel which has one or more structures with both odd and even street addresses shall be deemed to be even, regardless of such units actual street address. Open or common areas shall be deemed to have an odd street address regardless of whether such areas have a designated street address. Open or common areas shall consist of land in a multi-lot development, either commercial or residential, which is owned by a corporation or association for the beneficial use of the owners or tenants of land in the development. Outdoor water use shall include, but is not limited to, the following:

(a) The watering of shrubbery, trees, lawns, grass, plants or other vegetation, except that the following shall be exempted from the prohibition on outdoor watering:

- (1) the watering of a new lawn or turf for a period of 60 consecutive days after installation provided the owner or tenant of a lot, piece or parcel of real property receives the one-time exception provided herein. In order to be eligible for this one-time exception, the property owner or tenant shall provide prior written notice to the general manager of the James City Service Authority identifying the property address and the date of lawn or turf installation. No notice shall be required for watering a new lawn or turf installed on property that has a certificate of occupancy pending for a structure;
- (2) the watering of plants from a hand-held container;
- (3) the watering of nursery stock or plant material on property where it is grown, produced or held for sale.

(b) The washing of automobiles, trucks, trailers, boat, motor bikes, airplanes or other motor vehicles, except this prohibition on washing vehicles shall not apply to any facilities operating a water recycling system approved by the general manager of the James City Service Authority, provided that such a facility prominently displays for public view a notice stating that such a water recycling system is in operation.

(c) The washing of streets, driveways, parking lots, sidewalks, service station aprons, the exterior of homes, apartments, office building or commercial establishments, or other outdoor surfaces, except that such activities may be performed by businesses which are regularly engaged in these activities as a service for hire and have a business license to perform such activities.

(d) Exempt is all outdoor water use by means of a hose with an automatic shutoff nozzle which is continuously attended.

(e) In the event the county administrator declares a water shortage, the provisions of this section shall be superceded by Article VI, Drought Management, of Chapter 11, Health and Sanitation. (Ord. No. 116A-33, 7-23-02; Ord. No. 196A-1, 10-22-02; Ord. No. 116A-34, 2-25-03)

Sec. 11-66. Automatic irrigation system.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Automatic irrigation system. A device or combination of devices having a hose, pipe, or other conduit installed in the landscape which transmits James City Service Authority (JCSA) water, through which device or combination of devices JCSA water or a mixture of JCSA water and chemicals is drawn and applied to residential or commercial lawns, landscapes or greenspace.

Rain sensor. An electronic device that measures rainfall and will override the irrigation cycle of an automatic irrigation system, thus turning it off, when a predetermined amount of rain has fallen. To meet the requirements of this section, the device shall be mounted in an open area outdoors, above ground in an unobstructed location, well suited for gauging rain, according to the manufacturer's specifications. The rain sensor shall override the irrigation controller when adequate rainfall has occurred, which will keep the automatic irrigation system from watering in the rain.

(b) Requirements.

(1) In order to protect the public, health and welfare and insure the integrity of the JCSA water system, all irrigation systems installed in James City County and supplied water by the JCSA after March 8, 2005, shall have a rain sensor gauge set at one-fourth inch or less such that the system is turned off when one-fourth inch or more rain has fallen.

(2) JCSA customers with automatic irrigation systems that were installed prior to March 8, 2005, without a rain sensor are encouraged to install a rain sensor.

(3) All automatic irrigation systems must have a backflow preventor device.

(c) Maintenance.

All rain sensors shall be adjusted and set at one-fourth inch or less so that they automatically shut off when one-fourth inch of rain has fallen. All rain sensors shall be installed according to the manufacturer's instructions in a location that will provide full exposure to rainfall such that accuracy of operation is assured and shall be maintained in good working condition. No person shall adjust either the rain sensor or automatic irrigation system so that the rain sensor is not able to override and turn off the automatic irrigation system after one-fourth inch of rain has fallen. The rain sensor shall automatically interrupt the watering schedule of the automatic irrigation system and return it to its normal schedule after the rain event ends. The even/odd watering day schedule will still apply notwithstanding any provisions in this ordinance.

(Ord. No. 116A-36, 3-8-05)

State law reference - Power of authority, Code of Virginia § 15.2-5114.

Sec. 11-67. Violations of article.

A violation of any provision of this article shall constitute a misdemeanor by a fine of up to \$2,500.00, each day that a violation exists shall constitute a separate offense.
(Ord. No. 116A-33, 7-23-02; Ord. No. 196A-1, 10-22-02; Ord. No. 116A-34, 2-25-03; Ord. No. 116A-36, 3-8-05)

Sec. 11-68 - 11-71. Reserved.

ARTICLE VIII. DEBRIS MANAGEMENT FOLLOWING A DISASTER

Sec. 11-72. Purpose of article.

The removal of debris from local roads following an emergency is necessary to eliminate or lessen an immediate threat to life, public health and safety and to eliminate immediate threats of significant damage to improved property.
(Ord. No. 116A-38, 12-12-06)

Sec. 11-73. Definitions.

For the purposes of this article, the following words or phrases shall have the meanings respectively ascribed to them by this section.

Debris removal. The clearance of disaster-related material from public or private rights-of-way.

Emergency. Any natural or man-made disaster or other emergency for which a local, state or federal declaration of emergency is declared.

Local roads. Private roads which serve more than five homes where the underlying owner has entered into a memorandum of understanding with the county and public roads designated in a memorandum of agreement with the Virginia Department of Transportation (VDOT) resident administrator.

Memorandum of understanding. An agreement between the county and the owner of a privately-owned road or the VDOT resident administrator for publicly owned roads in a form approved by the county attorney and executed by the county administrator.
(Ord. No. 116A-38, 12-12-06)

Sec. 11-74. Debris removal on locally maintained roads.

Pursuant to the county's duty to protect the health and safety of its citizens and through its police power authority, the county, its contractors, agents, employees or assigns shall be responsible for the removal and disposal of debris from local roads in the event of an emergency. The county director of emergency management shall assume responsibility for implementing and overseeing the removal and disposal of debris on local roads.
(Ord. No. 116A-38, 12-12-06)

State law references-Code of Va., §§ 15.2-1200; 15.2-1201; 44-146.21.