

INTRODUCTION

State laws in Virginia impact many provisions in the ordinance codes of Virginia counties, cities and towns. This pamphlet is intended to assist county, city and town attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Virginia cities, towns and counties.

This pamphlet is current through the 2019 regular session.

Not all provisions of this pamphlet will apply to a particular code, nor does this pamphlet purport to include all state laws that may somehow affect the language of a code.

The provisions of this pamphlet are intended to assist city, town and county attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Virginia must be consulted as to the applicability of a given statute or case to a particular situation.

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CHARTERS

1. *Effect of Code of Virginia, title 15.2 on charters.*
 - a. Code of Virginia, title 15.2 does not repeal, amend, impair or affect any power, right or privilege conferred on counties, cities and towns by charter, except where expressly provided by the words "Notwithstanding any contrary provision of law, general or special, or words of similar import." See Code of Virginia, § 15.2-100.
 - b. Code of Virginia, title 15.2, ch. 11, art. 1, pertaining to powers of cities and towns, may be used to supplement, or be applicable in lieu of, local charters. See Code of Virginia, § 15.2-1100.

CODE OF ORDINANCES

GENERAL PROVISIONS

1. *General penalty.* Code of Virginia, § 15.2-1429 provides that the maximum penalty for the violation of a local ordinance is the penalty provided by general law for a Class 1 misdemeanor. Such penalty shall not exceed the penalty prescribed by general law for a like offense. The punishment for the various classes of misdemeanors is found in Code of Virginia, § 18.2-11.
2. *Alternative method to give notice by mail.* Code of Virginia, § 15.2-107.2 provides an alternative method for giving notice by mail.

ADMINISTRATION

1. *Notice of special meetings.* Electronic mail or facsimile notices of special meetings may be given to members of governing bodies upon the request of such members. See Code of Virginia, § 15.2-1418.
2. *Procurement—Design-build or not-to-exceed construction management contracts.* Design-build or not-to-exceed construction management contracts are authorized. See Code of Virginia, § 2.2-4382.

ANIMALS

1. *Lifetime dog licenses.* Lifetime dog or cat licenses are authorized. See Code of Virginia, § 3.2-6530.
2. *Civil penalties.*
 - a. Civil penalties are authorized for violation of certain animal control ordinances. See Code of Virginia, § 3.2-6543.
 - b. Ordinances prohibiting dogs from running at large must provide for a civil penalty for allowing a dog to run at large in a pack. See Code of Virginia, § 3.2-6538.
 - c. Civil penalties are authorized for violations of ordinances requiring a person operating a pet shop or operating as a dealer in companion animals to obtain a permit. See Code of Virginia, § 3.2-6537.
3. *Dangerous dogs.* The provisions of Code of Virginia, § 3.2-6540 have been amended.

BUILDINGS AND BUILDING REGULATIONS

1. *Registration of short-term rentals.* Localities may require registration of short-term rental property. See Code of Virginia, § 15.2-983.

2. *Statewide building code; civil penalties.* Localities may impose civil penalties for violations of the statewide building code. See Code of Virginia, § 36-106.
3. *Unsafe building ordinances.* Civil penalties are authorized for violation of unsafe building ordinances. See Code of Virginia, § 15.2-906.
4. *Waiver of certain fees for affordable housing.* Code of Virginia, § 15.2-958.4 has been amended.
5. *County historic preservation ordinances.* Counties may adopt civil penalties for violation of certain provisions of historic preservation ordinances. See Code of Virginia, §§ 15.2-744 and 15.2-819.

BUSINESSES

1. *Taxicab rates.* Localities may authorize the use of software-based devices that utilize GPS or other measurement data in the calculation of time-and-distance fares for taxicab service. See Code of Virginia, § 46.2-2062.
2. *Transportation network companies ("Uber").* Municipalities and counties may not regulate transportation network companies (TNCs), TNC partners, and TNC partner vehicles. See Code of Virginia § 46.2-2099.46.
3. *Contractor's license.* A locality, by ordinance, may establish a civil penalty that may be assessed when a person or business falsely represents to a customer or prospective customer that such person or business has a valid contractor's license issued pursuant to the provisions of Code of Virginia, § 54.1-1106. See Code of Virginia, § 54.1-1117.

ECONOMIC DEVELOPMENT

1. *Local economic revitalization areas.* Local economic revitalization areas are authorized. See Code of Virginia, § 15.2-1232.2.

ENVIRONMENT

1. *On-site sewage systems.* Civil penalties for ordinance violations are authorized. See Code of Virginia, § 15.2-2157.
2. *Tree conservation ordinances.* Civil penalties for violations of tree conservation ordinances are authorized. See Code of Virginia, § 10.1-1127.1.
3. *Sewer ordinances.* Civil penalties are authorized for violation of sewer ordinances. See Code of Virginia, § 15.2-2122.
4. *Stormwater management.* Civil penalties are authorized for violation of certain stormwater management ordinances. See Code of Virginia, § 62.1-44.15:48.
5. *Erosion and sediment control programs.* Violation of local erosion and sediment control programs may be made subject to a civil penalty. See Code of Virginia, § 62.1-44.15:54.

HEALTH

1. *Smoking.*
 - a. A civil penalty is authorized for violation of a local ordinance regulating smoking. See Code of Virginia, § 15.2-2833.
 - b. *Outdoor amphitheaters or concert venues.* Any locality, by ordinance, may designate reasonable no-smoking areas within an outdoor amphitheater or concert venue owned by that locality. See Code of Virginia, § 15.2-926.4.

NUISANCES

1. *Vegetation removal or cutting.*

- a. The provisions of Code of Virginia, § 15.2-901 have been expanded to apply to running bamboo. Civil penalties are authorized for violations of ordinances adopted pursuant to such section. See also Code of Virginia, § 15.2-901.1.
 - b. Civil penalties are authorized by violation of county grass-cutting ordinances. See Code of Virginia, § 15.2-1215.
2. *Inoperable motor vehicles.* Civil penalties are authorized for violations of ordinances prohibiting the keeping of inoperable motor vehicles on property zoned for residential, commercial or agricultural purposes. See Code of Virginia § 15.2-904.

OFFENSES AND MISCELLANEOUS PROVISIONS

1. *Firearms.*
 - a. *Preemption.* Subject to certain exceptions, and except as expressly authorized by statute, counties, cities and towns cannot regulate or prohibit the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components, or a combination thereof. A statute that does not refer to firearms, ammunition, or components, or a combination thereof, does not provide express authorization. See Code of Virginia, § 15.2-915. In addition to any other relief, such statute provides that courts may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action challenging an ordinance by such section.
 - b. *Discharge of firearms.* Any municipal corporation that regulates or prohibits the discharge of firearms shall provide an exemption for the killing of deer pursuant to Code of Virginia, § 29.1-529, with such exemption applying on land of at least five acres that is zoned for agricultural use. See Code of Virginia, § 15.2-1113.
2. *Noise ordinances.* Civil penalties for violations of noise ordinances are permitted. See Code of Virginia, § 15.2-980.
3. *Privately-owned, unmanned aircraft systems.* Subject to certain exceptions, no locality may regulate the use of privately-owned, unmanned aircraft systems. See Code of Virginia, § 15.2-926.3.
4. *Permissible fireworks.* The definition of permissible fireworks in Code of Virginia, § 27-95 has been amended.

SOLID WASTE

1. *Ordinances generally.* Civil penalties for violations of solid waste collection and disposal ordinances are authorized. See Code of Virginia, § 15.2-298.
2. *Separation of solid waste for collection and recycling.* Ordinances requiring separation of solid waste for collection and recycling shall provide civil penalties for violations. See Code of Virginia, § 15.2-937.

SUBDIVISIONS

1. *Sidewalks.* Code of Virginia, § 15.2-2242(9) has been amended.

TAXATION

1. *License taxes and business licenses.*
 - a. The provisions of Code of Virginia, title 58.1, ch. 37 are the sole authority for counties, cities and towns for the levying of the license taxes described therein. See Code of Virginia, § 58.1-3702.
 - b. For local property taxation purposes, the governing body of any county, city, or town may tax short-term rental property pursuant to Code of Virginia, § 58.1-3509 or Code of Virginia, § 58.1-3510.6, but not both. See Code of Virginia, § 58.1-3510.4.

2. *Coal and gas severance tax ordinances and local coal and gas road improvement tax ordinances.* Restrictions and requirements have been imposed upon coal and gas severance tax ordinances and local coal and gas road improvement tax ordinances. See Code of Virginia, § 58.1-3713.3.

3. *Green development zones.* Green development zone tax exemptions are authorized. See Code of Virginia, §§ 58.1-3245.12 and 58.1-3854.

4. *Technology zones.* Partial exemptions from taxation in enterprise or technology zones are authorized. See Code of Virginia, § 58.1-3221. See also Code of Virginia, § 58.1-3850.

TRAFFIC AND VEHICLES

1. *Electric personal delivery devices.* Localities may restrict the use of electric personal delivery devices. See Code of Virginia, § 46.2-904. Such ordinances, together with related ordinances, are subject to civil penalties.

2. *Parking meters—Parking tickets.* Certain localities may provide for parking tickets for parking meter violations. See Code of Virginia, § 46.2-1220.

ZONING

1. *Amendment or reenactment procedures.* Amendment or reenactment procedures have been revised. See Code of Virginia, § 15.2-2285.

2. *Family day care homes.* Code of Virginia, § 15.2-2292 has been amended to require a "protest procedure."

3. *Civil penalties.* Localities may provide civil penalties for violations of zoning ordinances. See Code of Virginia, § 15.2-2209.

4. *Counties; civil penalties for certain violations.* Counties may provide civil penalties for violations of specified provisions of the zoning ordinances regulating the storage of junk and the repair of motor vehicles. See Code of Virginia, § 15.2-730.