

INTRODUCTION

State law changes 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 2016 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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PART I. 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 members of governing bodies upon the request of such members. See Code of Virginia, § 15.2-1418.
2. *Procurement Code.*
 - a. The competitive negotiation process was amended in 2016. See Code of Virginia, § 2.2-4303.2.
 - b. General exemptions were amended in 2016. See Code of Virginia, § 2.2-4343.
 - c. The competitive sealed bidding process was amended in 2016. See Code of Virginia, § 2.2-4302.

ANIMALS

1. *Animal control officers.* Code of Virginia, § 3.2-6556 was amended in 2016.

ENVIRONMENT

1. *On-site sewage systems.* Civil penalties for ordinance violations are now authorized. See Code of Virginia, § 15.2-2157.

OFFENSES AND MISCELLANEOUS PROVISIONS

1. *Firearms.*
 - a. *Preemption.* Subject to certain exceptions, counties, cities and towns cannot regulate or prohibit governing the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. A statute that does not refer to firearms, ammunition, or components or 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 violation of noise ordinances are permitted. See Code of Virginia, § 15.2-980.

3. *Privately owned, unmanned aircraft systems.* Until July 1, 2019, no locality may regulate the use of privately owned, unmanned aircraft systems.

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. The statute imposing general limitations on license taxes was amended in 2016. See Code of Virginia, § 58.1-3703.

- c. 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.

TRAFFIC AND VEHICLES

1. *Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents.* Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents is authorized, subject to restrictions. See Code of Virginia, § 15.2-1716 (amended in 2015).

UTILITIES

1. *Termination of service for nonpayment of charges; liens for unpaid charges.* The provisions of Code of Virginia, § 15.2-2119 were amended in 2016.

ZONING

1. *Nonconforming uses.* The provisions of Code of Virginia, § 15.2-2307 were amended in 2016.