

REGULAR MEETING OF THE ISLE OF WIGHT COUNTY BOARD OF SUPERVISORS  
HELD IN THE ROBERT C. CLAUD, SR. BOARD ROOM OF THE ISLE OF WIGHT  
COUNTY COURTHOUSE LOCATED AT 17090 MONUMENT CIRCLE, ISLE OF WIGHT,  
VIRGINIA ON THURSDAY, THE NINETEENTH DAY OF SEPTEMBER IN THE YEAR TWO  
THOUSAND AND NINETEEN

PRESENT:

William M. McCarty, Newport District, Chairman  
Joel C. Acree, Windsor District, Vice-Chairman  
Don G. Rosie, II, Carrsville District  
Richard L. Grice, Smithfield District  
Rudolph Jefferson, Hardy District

ALSO IN ATTENDANCE:

Robert W. Jones, Jr., County Attorney  
Randy R. Keaton, County Administrator  
Donald T. Robertson, Assistant County Administrator  
Carey M. Storm, Clerk

CALL TO ORDER

Chairman McCarty called the regular Board of Supervisors' meeting to order at 5:00 p.m. and welcomed all present.

APPROVAL OF AGENDA/AMENDMENTS

Supervisor Acree motioned to approve the agenda as presented. The motion unanimously carried (5-0).

CLOSED MEETING

The following matters were identified for discussion in closed meeting by County Attorney Jones:

Pursuant to Section 2.2-3711(A)(1) of the *Code of Virginia* concerning a discussion regarding the appointment of specific appointees to County boards, committees or authorities; pursuant to Section 2.2-3711(A)(1) regarding a discussion concerning the performance of specific County employee; pursuant to Section 2.2-3711(A)(3) regarding a lease on a public-held property where discussion in open meeting would adversely affect the bargaining position and negotiating strategy of the governing body; pursuant to Section 2.2-3711(A)(7) regarding

consultation with legal counsel regarding actual and probable litigation where such consultation would adversely affect the negotiation or litigating posture of the governing body; and, pursuant to Section 2.2-3711(A)(8) regarding consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel.

Upon motion of Supervisor Jefferson and all voting in favor (5-0), the Board entered the closed meeting for the reasons stated by County Attorney Jones.

Upon motion of Supervisor Jefferson and all voting in favor (5-0), the Board reconvened into open meeting.

County Attorney Jones reminded the Board that in accordance with Section 2-10(G) of the Board's Rules & Procedure, all those who participated in the closed meeting are reminded that all matters discussed in closed meeting are to remain confidential, as provided under the Virginia Freedom of Information Act, and that such matters as were discussed in closed meeting should not be acted upon or discussed in public by any participant unless and until a public, formal action of the Board of Supervisors is taken on that particular subject matter.

Upon motion of Supervisor Jefferson, the following Resolution was adopted:

#### CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and,

WHEREAS, Section 2.2-3712(D) of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors.

## VOTE

AYES: Acree, Rosie, Grice, Jefferson and McCarty

NAYS: 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

Supervisor Grice moved that the Board have a closed meeting concerning a personnel matter prior to adjourning the meeting. The motion was adopted unanimously (5-0).

## INVOCATION/PLEDGE OF ALLEGIANCE

Pastor Bobby Bowser of New Men Baptist Church delivered the invocation and led the Pledge of Allegiance to the American Flag of the United States of America.

## CITIZENS' COMMENTS

Ed Easter thanked the Board and staff for accomplishments over the past three and half years and hoped they would not pass on future opportunities for the County.

William Faulkner spoke regarding the positive impacts of agritourism. He also gave out a list of websites that can provide more information.

Herb DeGroft commented on the School Board's spending practices. He also reminded the Board of the Veterans Day celebration on November 11.

Cline Little spoke in favor of the resolution honoring military veterans under new business but cautioned against making a monetary donation.

## CONSENT AGENDA

On motion of Supervisor Rosie, which carried unanimously (5-0), the following Consent Agenda was adopted:

- A. Resolution to amend the FY2018-19 grant fund budget and appropriate \$1,900 for the Byrne Justice Assistance grant funds from the Virginia Department of Criminal Justice Services to purchase four body worn cameras
- B. Resolution to amend the FY2018-19 grant fund budget and appropriate \$25,285 from the Virginia Department of Motor Vehicles to the FY2019-20 Operating Budget for the purpose of conducting an alcohol selective enforcement program
- C. Resolution to amend the Position Classification and Compensation Plan for FY2019-20.
- D. Resolution to accept and appropriate two (2) in-car camera systems from the Virginia Department of Vehicles to the IOW County Sheriff's Department for law enforcement purposes
- E. Resolution to accept and appropriate a 1991 Utility Trailer from the Windsor Volunteer Rescue Squad to the IOW County Sheriff's Department for law enforcement purposes
- F. Resolution to amend the FY2019-20 general fund operating budget & appropriate \$2,148 for repairs to two (2) Sheriff's Office Vehicles, from insurance proceeds
- G. Authorization to proceed with the evaluation of Westside Elementary School
- H. Resolution to amend the FY2019-20 capital budget and appropriate \$28,698 to purchase a medic unit for Windsor Volunteer Rescue Squad
- I. Resolution to amend the FY2019-20 general fund budget and appropriate \$48,369 for the Comprehensive Plan Project.

#### REGIONAL AND INTER-GOVERNMENTAL REPORTS

No reports were shared.

### APPOINTMENTS

Supervisor Jefferson motioned to appoint Lt. Chris Smith to serve on the Tidewater EMS Council. The motion unanimously passed (5-0).

Supervisor Grice motioned to appoint Richard Schwarting to serve on the SPSA Citizen Advisory Committee. The motion unanimously passed (5-0).

Appointments to the Special Needs Task Force was postponed until local organizations could be contacted.

### SPECIAL PRESENTATIONS

Mr. Tommy Catlett, the local VDOT representative, provided mowing and inhouse surface treatment updates; advised that the turning radius at Fire Tower Road and Route 460 had been widened; and, offered to pass along that improvement to the intersection at Routes 603 and 614 was needed. He updated the Board on the erosion issue on Bradby's Lane; advised that a plan has been developed to address the drainage issue at the Airport shopping center; and, reviewed several options for a pipe on Quaker Road.

Supervisor Rosie advised requested additional cuttings at the bridge in Carrsville to address the blind spot.

Supervisor Acree requested grass cutting at the BMP at Benns Grant and Brewers Neck Boulevard; notified motorists are not paying attention to signaling devices on the James River Bridge; and, requested the criteria for patching roadways.

County Administrator Keaton provided an update on the turn lane on Turner Drive.

### COUNTY ATTORNEY'S REPORT

County Attorney Jones advised that he has investigated the County's participation in litigation involving the manufacturing, sale and distribution of opioids and he presented an agreement to retain counsel to investigate and pursue any litigation in connection with that.

Supervisor Jefferson moved that the Chairman be authorized to sign the retainer agreements with Sanford Heisler Sharp, LLP and Kaufman & Canoles, P.C. The motion was unanimously (5-0).

County Attorney Jones requested authorization to execute a termination agreement for the Benn's Church intersection to release the lien at the Courthouse.

Supervisor Rosie moved to authorize termination of a payment agreement dated December 19, 2013 between Benns Church Properties, Turner Farms, Inc., Henry W. Morgan, and Richard L. Turner ("Owners") and Isle of Wight County, VA. The motion was unanimously (5-0).

#### PUBLIC HEARINGS

- A. Conditional Use Permit to establish a major utility service (Solar Farm) and a substation on property zoned Rural Agricultural Conservation (RAC) with Tax Map numbers 35-01-007 and 52-01-046 (Windsor PV1, LLC, Cobb Land Limited Partnership).

Malina Springer, Principle Planner, provided an overview of the application.

Chairman McCarty opened the public hearing and called for those persons in favor of or in opposition to the proposed Conditional Use Permit.

Forrest Melvin, representing Windsor, PV1, LLC, advised that the application is being amended to 730 acres. She advised 85 megawatts can power approximately 12,500 to 18,000 homes and the current land use has approximately 250 acres of active agricultural land, representing 3% of the County's agricultural land. She stated this will only be a temporary use and it will be safe to return to active agricultural after the end of the lease period or end of the contract. She advised that a community meeting was held on June 12, 2019 and successful in addressing community concerns on setbacks, screening and buffering while also providing education on environmental safety. She advised the minimum setback along roadways and residential property is being increased. She stated the benefit to the County is in the form of taxes and the land assessment of real property and the construction period is anticipated to be approximately 12 months

Bruce Penrose, 7443 West Blackwater Road, stated approval of this permit will greatly impact his property and he requested the Board to ensure that adequate screening is in place to shield the view of a chain-length fence and solar panels.

Estelle Strackley stated the farm has been in her family since 1856 and she is in support of the solar project which will benefit the County, the community and her family.

County Attorney Jones noted for the record that a letter of opposition had been received dated September 17, 2019 from David E. Lowe of 25097 Bows and Arrows Road due to the negative impact on wildlife.

Supervisor Jefferson requested clarification on the screening and Ms. Melvin advised that all screening will be evergreen.

Supervisor Grice inquired what the soils test is looking for and Ms. Ring responded that it will be looking for any potential soil and ground water contamination due to heavy metals.

Tommy Cleveland advised that panels planned for the site under discussion is a silicone-based panel that does not contain heavy metals.

Chairman McCarty closed the public hearing and called for comments by the Board.

Supervisor Rosie inquired about the amount of surety bond and terms of closure.

Ms. Ring advised that the surety bond estimate is provided by a professional engineer engaged by the applicant and approved by the County at the time of final site plan approval. She advised that a new estimate is required by the applicant every five years to ensure that the surety amount is adequate.

Supervisor Rosie commented that the proposed screening appears to be lean. He encouraged staff to ensure adequate screening is in place, noting that there is a historical house in close vicinity.

Supervisor Grice recommended that the requirements for the bonding and soil testing remain in effect and part of the contract should the farm be sold or transferred to another agency. He was assured that those permits run with the land and whoever acquires the land acquires all legal obligations.

Chairman McCarty inquired about the disposition of the panels and was advised that broken panels can go to a landfill or be recycled.

Ms. Ring commented that the black felt technique had been used on the Oliver farm, the first solar farm approved in the County, but that it had not worked out very well appearance-wise and staff had not required any enhanced buffers or additional setbacks to address the screening and view impact.

Supervisor Rosie moved that the Board concur with the Planning Commission's recommendation and adopt the following ordinance granting a Conditional Use Permit:

AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH A MAJOR UTILITY SERVICE (SOLAR FARM) AND A SUBSTATION ON PROPERTY ZONED RURAL AGRICULTURAL CONSERVATION (RAC) WITH TAX MAP NUMBERS 53-01-007 AND 52-01-046

WHEREAS, Forrest Melvin on behalf of Windsor PV1, LLC, applicant, and Cobb Land Limited Partnership and Burrell D. Roberts, LLC, property owners, have requested a conditional use permit for a major utility service (solar farm) and a substation in accordance with Section 1-1017 of the County Zoning Ordinance on certain tracts of land situated in Isle of Wight County, Virginia, with tax map numbers 53-01-007 and 52-01-046 which land is depicted on Exhibit "B"; and

WHEREAS, the procedural requirements of Appendix B, Zoning Ordinance, of the Code of Isle of Wight County, Virginia, 2005 (as amended), have been followed; and

WHEREAS, in acting upon this request, the Planning Commission and Board of Supervisors have considered the matters enunciated in Section 15.2-2284 of the Code of Virginia (1950), as amended, and Section 1-1017 of the Isle of Wight County zoning ordinance with respect to the purposes stated in the Code of Virginia (1950), as amended, Sections 15.2-2200 and 15.2-2283; and

WHEREAS, the Planning Commission has made a recommendation as stated in Exhibit "A".



NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors, that:

Section 1.     Exhibits.

Exhibit "A", "Planning Commission Recommendation" and Exhibit "B", "Concept Plan", which are attached hereto, are hereby incorporated as part of this ordinance.

Section 2.     Findings.

The Board of Supervisors finds that the proposal for a conditional use permit, as submitted or modified with conditions herein, the expressed purpose of which is to permit a major utility service (solar farm), and a substation is in conformity with the standards of the Isle of Wight County zoning ordinance, and that it will have no more adverse effects on the health, safety or comfort of persons living or working in or driving through the neighborhood, and will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district, taking into consideration the location, type and height of buildings or structures, the type and extent of landscaping and screening on site and whether the use is consistent with any theme, action, policy or map of the Comprehensive Plan which encourages mixed uses and/or densities with the conditions set forth below.

These findings are based upon the consideration for the existing use and character of property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the County.

These findings are based upon a determination that the most reasonable and limited way of avoiding the adverse impacts of a major utility service (solar farm) and a substation is by the imposition of the conditions provided herein.

### Section 3. Permit Granted.

The conditional use permit for the property be, and it is hereby, approved for the property, subject to the following conditions and the general conditions set forth in Section 4 hereof. The conditional use permit specifically permits a utility service, major (solar farm), and a substation in compliance with the County zoning ordinance.

#### Conditions

1. The landscaping buffer shall be increased, as noted on pages 1 and 2 of the Narrative.
2. Vehicular traffic for solar farm construction equipment shall be restricted to those routes identified in the Project Transportation Plan.
3. During and at the end of project construction, any damage done to W. Blackwater Road, Antioch Road, Bows and Arrows Road, and Knoxville Road by solar farm construction equipment shall be repaired in accordance with VDOT standards and specifications. Post construction damage shall be identified based on inspections by VDOT with the Developer or their agent, prior to construction and upon completion, identifying the items for repair. Additionally, at the request of VDOT, in order to ensure the safety of the traveling public, some damages may need to be addressed immediately.
4. Provide an adequate surety bond established by a third party engineering cost expert and have the bond amount reviewed on a five (5) year basis, the potential salvage value not be used against the bond.
5. Provide soil testing before and after construction and every five (5) years until project is decommissioned.

6. The use must be established on the property within five years of the date of approval.
7. The conditional use permit shall apply to a maximum of 730 acres for use as a solar power generation facility.

Section 4. General Conditions.

- (a) The conditional use permit may be revoked by the Board upon failure to comply with any of the conditions contained herein in the same manner as which the permit was granted.
- (b) To the extent applicable, the requirements set forth in the County zoning ordinance shall be met.
- (c) The commencement of the use described in Section 3 of this ordinance shall be deemed acceptance by Isle of Wight County, property owner, or any party undertaking or maintaining such use, of the conditions to which the conditional use permit herein granted is subject.

Section 5. Severability.

It is the intention of the Board of Supervisors that the provisions, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable; and if any phrase, clause, sentence, paragraph, section and provision of this ordinance hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections and provisions of this ordinance, to the extent that they can be enforced notwithstanding such determination.

Section 6. Effective Date.

This ordinance shall be effective upon passage and shall not be published or codified. The conditional use authorized by this permit shall be implemented within five (5) years from the date of approval by the Board of Supervisors and shall terminate if not initiated within that time period.

The motion was adopted unanimously (5-0).

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The Board took a recess and returned to the continuation of the public hearings.

- B. Ordinance amending Chapter 8 – Garbage, Weeds, and Litter. Chapter 11 – Motor Vehicles and Traffic. Chapter 14 – Sewers and Sewage Disposal. Chapter 16.1 – Water. These amendments clearly set forth local ordinances for the benefit of the public, in order to accurately reflect current practices, to correct inaccuracies, and conform to those provisions set forth in the Code of Virginia.

County Attorney Jones provided an overview of amendments to four chapters of the Ordinance of the County Code.

Chairman McCarty opened the public hearing and called for those persons in favor of or in opposition to the proposed Conditional Use permit.

No one appeared and spoke.

Chairman McCarty closed the public hearing and called for comments by the Board.

Supervisor Grice moved that the following Ordinance be adopted:

AN ORDINANCE TO AMEND AND REENACT  
THE ISLE OF WIGHT COUNTY CODE  
BY AMENDING AND REENACTING  
CHAPTER 8. GARBAGE, WEEDS AND LITTER  
CHAPTER 11. MOTOR VEHICLES AND TRAFFIC  
CHAPTER 14. SEWERS AND SEWAGE DISPOSAL  
AND  
CHAPTER 16.1. WATER

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia, has deemed it necessary and appropriate to update its current ordinances in order to more clearly set forth local ordinances for the benefit of the public, in order to accurately reflect current practices, to correct inaccuracies, and to conform to those provisions set forth in the Code of Virginia (1950, as amended); and

WHEREAS, the Board of Supervisors deems such a revision necessary as a means to protect the health and welfare of the citizens of Isle of Wight County, Virginia;

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors that Chapter 8. Garbage, Weed and Litter of the Isle of Wight County Code be amended and reenacted as follows:

#### CHAPTER 8. – GARBAGE, WEEDS AND LITTER

##### Article II. - Condition of Premises: Owner and Occupant Duties.

##### Sec. 8-2 - Removal of grass and weeds.

(a) It shall be unlawful for the owner of occupied or vacant developed or undeveloped property within the boundaries of a platted subdivision, or any other areas zoned for residential, business, commercial or industrial use, to permit the growth of weeds, brush or other uncontrolled vegetation in excess of 12 inches to remain. This section shall not have any force and effect within the corporate limits of any town within the county nor shall this section apply to land zoned for or in active farming operation.

(b) When the county has determined that a violation exists, it shall notify the owner of the parcel or lot on which the violation exists to cut or cause to be cut the grass and weeds in accordance with county policy. For purposes of this section, only one written notice per growing season shall be required.

(c) If the grass and weeds are not cut within the time required by the notice then the county may cause them to be cut and the cost and expense thereof is assessed against the owner of such property. The cost thereof shall be billed to the owner and, if not paid, shall constitute a lien on the property and shall be added to and collected in the same manner as real estate taxes on such property. (9-1919.)

State Law Reference – Code of Virginia §15.2-901.

Sec. 8-3. - Removal of garbage, trash, refuse, etc.

(a) Any person, firm, or corporation owning land within the county shall, at all times, remove, or cause to be removed, from such land any and all trash, garbage, refuse, litter, and any other substance which might endanger the health or safety of other residents of the county. Any such person, firm, or corporation who fails to remove any such material after being given notice to do so in accordance to county policy shall be in violation of this section.

(b) If any material described herein is not removed within the time required by the notice then the county may cause to be removed any material described herein and the cost and expense thereof is assessed against the owner of such property. The cost thereof shall be billed to the owner and, if not paid, shall constitute a lien on the property and shall be added to and collected in the same manner as real estate taxes on such property. (9-1919.)

State Law Reference – Code of Virginia §15.2-901.

Sec. 8-4. - Penalties.

Violations of this article shall result in the following civil penalties:

(a) Fifty dollars for the first offense; and

(b) Two hundred dollars for subsequent violations not arising from the same set of operative facts within twelve months of the first offense.

Every three-day period during which the same violation is found to have existed shall constitute a separate offense. In the event three civil penalties have previously been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts within a twenty-four-month period, such violations shall be a Class 3 misdemeanor. (9-1919.)

State Law Reference – Code of Virginia §15.2-901. Sec. 8-5. – Reserved.

Article III. - Unlawful Disposal of Litter on Highway, Right-of-Way or Private Property.

Sec. 8-8. - Penalties.

A violation of this article shall constitute a misdemeanor punishable by a fine of not less than two hundred fifty dollars or more than two thousand five hundred dollars and confinement in jail for not more than twelve months, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities. (8-21-06, 9-19-19))

State Law Reference – Code of Virginia §33.2-802

Article IV. - Load Covering and Transportation of Litter.

Sec. 8-12. - Penalties.

A violation of this section shall constitute a traffic infraction punishable by a fine of not more than two hundred fifty dollars. (8-21-06; 10-2-08, 9-1919.)

State Law Reference – Code of Virginia §46.2-303

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Isle of Wight County Board of Supervisors, Virginia, that Chapter 11. Motor Vehicles and Traffic of the Isle of Wight County Code be amended and reenacted as follows:

CHAPTER 11. – MOTOR VEHICLES AND TRAFFIC.

Article I. – In General.

Sec. 11-8. - Keeping of inoperable motor vehicles.

(a) Definitions as used in this section:

- (1) Motor vehicle or vehicle means any motor vehicle, trailer or semi-trailer, or any part thereof, as defined in Section 46.2-100 of the Code of Virginia (1950, as amended).
- (2) Inoperable vehicle means any vehicle
  - (i) Which is not in operating condition; or
  - (ii) Which, for a period of sixty days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or
  - (iii) On which there are displayed no valid state license plates; or
  - (iv) On which there is displayed no valid state inspection decal.

This definition of "inoperable vehicle" shall not include a registered and licensed antique vehicle, classic vehicle, or prestige vehicle so long as the vehicle is in operating condition.

(3) Shielded or screened from view means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

(b) It shall be unlawful for any person, firm or corporation to keep on any property zoned for residential, commercial or agricultural purposes any vehicle which is inoperable, except within a fully enclosed building or structure or otherwise shielded or screen from view, subject to the following:

(1) On property less than two acres, one inoperable vehicle not otherwise shielded or screened from view may be parked or stored outside of a fully enclosed building if such vehicle is shielded or screened from view by covers; provided that up to two inoperable vehicles may be parked or stored outside of a fully enclosed building if the owner of such vehicles demonstrates that he is actively restoring or repairing one of the vehicles, the second vehicle is being used for the restoration or repair, and each vehicle parked or stored outside a fully enclosed building is shielded or screened by covers; or

(2) On property two acres and larger, two inoperable vehicles not otherwise shielded or screened from view, may be parked or stored outside of a fully enclosed building if such vehicle is shielded or screened from view by covers; or

(3) The inoperable vehicle is kept at a commercial business in compliance with the county's zoning regulations covering such business and/or a conditional use permit has been issued for the operation of such business; or

(4) An inoperable vehicle being repaired at an automobile repair business may be kept at such property for no more than sixty continuous days; or

(c) The provisions of this section shall not apply to any entity which was licensed and regularly engaged in business as an automobile dealer, salvage dealer or scrap processor, as of June 26, 1970.



(d) Any person violating this section shall be guilty of a Class 1 misdemeanor. Each day's continuation of a violation of this section shall be deemed a separate offense.

(e) Any person who is a first-time violator of this section may be found guilty of a Class 4 misdemeanor if the property is in compliance before the time of trial.

(f) The zoning administrator and code enforcement officer are hereby authorized to take any action necessary to ensure compliance with this section. (9-21-17, 9-19-19.)

(STATE LAW REFERENCE—For state law as to authority to restrict keeping of inoperable motor vehicles and removal of such vehicles, see Code of Virginia, Sec. 15.2-904.)

#### Sec. 11-9. - Removal of inoperable vehicles.

(a) The owner of real property shall remove therefrom any inoperable motor vehicle which is kept in violation of section 11-8 above.

(b) The county, through its agents and employees, may remove any inoperable vehicle, which is kept in violation of section 11-8 above, after providing notice in accordance to county policy to the owner of the real property upon which such vehicle is located.

(c) After the county has removed an inoperable vehicle, in accordance with the preceding subsection, the county may dispose of such vehicle, after giving ten days' notice to the owner of the vehicle, or, if the name of the owner of the vehicle cannot be reasonably ascertained, after giving ten days' notice to the owner of the real property upon which such vehicle is located.

(d) The cost of any removal pursuant to this section shall be chargeable (i) to the owner of the vehicle and/or (ii) to the owner of the real property upon which such vehicle was located. The liability of all such persons shall be joint and several.

(e) The costs of any removal pursuant to this section may be collected by the county as taxes and levies are collected.

(f) Every cost authorized by this section with which the owner of the premises has 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 has been made to the county. (9-21-17, 9-19-19.)

(STATE LAW REFERENCE—For state law as to authority to restrict keeping of inoperable motor vehicles and removal of such vehicles, see Code of Virginia, Sec. 15.2-904.)

Article VII. – Driving While Under Influence of Alcohol or Other Intoxicant or Drug.

Sec. 11-70. - Reimbursement of expenses incurred in responding to DUI and related incidents

(a) Any person who is convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the county or to any responding volunteer fire or rescue squad, or both, for restitution of reasonable expenses incurred by the county for responding law enforcement, firefighting, rescue and emergency services, including those incurred by the sheriff's office of the county or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation. A person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the county or to any responding volunteer fire or volunteer emergency medical services agency, or both, for restitution of reasonable expenses incurred by the county when issuing any related arrest warrant or summons, including the expenses incurred by the sheriff's department, or by any volunteer fire or volunteer emergency medical services agency, or by any combination of the foregoing:

- (1) The provisions of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, or 46.2-341.24, of the Code of Virginia, 1950, as amended, or a similar ordinance, when such operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of the accident or incident;
- (2) The provisions of Article 7 (§ 46.2-852, et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia, 1950, as amended, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

(3) The provisions of Article 1 (§ 46.1-300, et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia, 1950, as amended, relating to driving without a license or driving with a suspended or revoked license; and

(4) The provisions of § 46.2-894 of the Code of Virginia, 1950, relating to improperly leaving the scene of an accident.

(b) Personal liability under this section for reasonable expenses of an appropriate

Emergency response pursuant to subsection A) shall not exceed \$1,000.00 in the

aggregate for a particular accident, arrest, or incident occurring in the county.

In

determining the "reasonable expenses," the county may bill a flat fee of \$350.00 or a

minute-by-minute accounting of the actual costs incurred. As used in this section,

"appropriate emergency response" includes all costs of providing law-enforcement,

firefighting, and emergency medical services. The court may order as restitution the

reasonable expenses incurred by the county for responding law enforcement, firefighting, and emergency medical services. The provisions of this section shall not

preempt or limit any remedy available to the Commonwealth, to the county, or to any

volunteer emergency medical services agency to recover the reasonable expenses

of an emergency response to an accident or incident not involving impaired driving,

operation of a vehicle, or other conduct as set forth herein. (9-21-17, 9-19-2019)

State Law reference - Code of Virginia §15.2-1716.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Isle of Wight County Board of Supervisors, Virginia, that Chapter 14. Sewers And Sewage Disposal of the Isle of Wight County Code be amended and reenacted as follows:

#### CHAPTER 14. - SEWERS AND SEWAGE DISPOSAL.

##### Article I. - In General.

##### Sec. 14-3. - Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

BOD (biochemical oxygen demand).\ The quantity of oxygen, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at twenty degrees centigrade. The standard laboratory procedure shall be that found in the latest edition of the "Standard Methods for the Examination of Water and Sewage," published by the American Public Health Association.

Building\ or dwelling unit.

- (1) Any single-family residential structure; or
- (2) Any combination of structures owned by one person, or jointly by a number of persons as cotenants, joint tenants or tenants-by-the-entireties and occupied as a residence or farm by a single family; or
- (3) Each separately owned, leased or occupied part of structures physically connected in a series, whether the series be vertical or horizontal, such as row houses, townhouses, duplex houses, twin houses, condominiums, row or stores or physically connected commercial or industrial structures, etc.; or
- (4) Each apartment in, or each separately leased or occupied part of or to be separately leased or occupied part of any multiple-occupancy structure; or
- (5) Any single and separate structure owned by one person, or jointly by a number of persons as cotenants, joint tenants or tenants-by-the-entireties and used by the owner or single lessee or occupant thereof, only for agricultural, commercial, governmental, or industrial purposes; or

- (6) Any other land or separate structure not classified herein as a building. The county reserves the right to determine the classification and use of any structure.

Building drain.\ That part of the lowest horizontal piping of a drainage system which receives sewer waste inside the walls of a building and conveys it to the building sewer.

Building service\ or building sewer. The pipe for conveying waste from the building drain to the public sewer system or other place of disposal.

Chlorine demand.\ The quantity of chlorine absorbed in water, sewage or other liquids, allowing a residual of one tenth ppm, after fifteen minutes of contact.

Color of an industrial waste.\ The color of the light transmitted by the waste solution after removing the suspended material, including the pseudocolloidal particles.

Consumer\ or customer. The person legally or equitably responsible for the payment of charges for sewer services rendered by the county.

Development.\ The improvement of zoned residential, commercial, industrial or public property in accordance with county land use, comprehensive and facilities planning.

Dissolved solids.\ The anhydrous residues of the dissolved constituents in water or wastewater.

Domestic waste.\ The normal water-carried household and toilet wastes from residences, business buildings, institutions and industrial establishments.

Equivalent dwelling unit (EDU).\ The conversion, with respect to water consumption of multi-residential, commercial, industrial and institutional connectors into their residential equivalents on the basis of water use established for a living unit consisting of three and five-tenths persons.

Ground garbage.\ Garbage that has been shredded to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than one-half inch in any dimension.

HRSD.\ H.R.S.D.: Acronym for Hampton Roads Sanitation District which is the regional agency that provides regional transmission and treatment facilities for wastewater.

Improved property.\ Any property within the county upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals, and from which sanitary sewage or industrial wastes shall be or may be discharged.

Industrial establishment.\ Any improved property used, in whole or in part, for manufacturing, processing, cleaning, laundering or assembling any product, commodity or article, or from which any process waste, as distinct from domestic waste, shall be discharged.

Industrial wastes.\ Any liquid or gaseous substance, whether or not solids are contained therein, discharge from any industrial establishment during the course of any industrial, manufacturing, trade, or business process, or in the course of the development, recovery, or processing of natural resources, as distinct from domestic waste.

New premises, building or dwelling unit.\ Any premises, building or dwelling unit constructed on property abutting a county sewer line; provided, however, that such construction occurs after the installation of such sewer line.

Manhole.\ A shaft or chamber leading from the surface of the ground to a sewer, large enough to enable human access to the latter.

Official connection notice.\ A notice in letter form sent by certified mail, return receipt requested, from the county to the owner of premises, buildings or dwelling units abutting a county sewer line giving notice to the owner that the sewer line is available for connection thereto.

Owner.\ Any person vested with ownership, legal or equitable, sole or partial, of any property located in the county.

pH.\ The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution, indicating the degree of acidity or alkalinity of a substance. A stabilized "pH" will be considered as a "pH" which does not change beyond the specific limits when the waste is subjected to aeration. It shall be determined by one of the accepted methods described in the latest edition of "Standard Methods for Examination of Water and Sewage" published by the American Public Health Association.

Plumbing Code.\ The most current edition of the International Plumbing Code, published by the International Code Council Inc., as amended and referenced in the most current edition of the Virginia Statewide Building Code.

Sanitary sewer\ or main. Any pipe or conduit extending within public right-of-way parallel or nearly parallel to the line of property abutting thereon and usable for sewage collection purposes, and to which storm, surface and ground waters are not admitted.

Service connection\ or lateral. That portion of the individual property service line wholly contained within public right-of-way.

Sewage.\ The water-carried wastes from residences, business buildings, institutions and industrial establishments.

Sewer system.\ All facilities, as of any particular time, for collecting, pumping, treating or disposing of domestic waste or industrial wastes on public-owned property or right-of-way.

Suspended solids.\ Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtration.

Toxic substance.\ Any noxious or deleterious substance in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in any sewer system. (5-21-09, 9-1919.)

Article II. - Annual, Sewer Rentals.

Sec. 14-14. - Credit adjustments.

Should the owner, occupant or consumer receive a credit on their water bill as a result of underground or inside leaks, or both, as set forth in Sec. 16.1-11(c) of the Isle of Wight County Code the county may make a sewer credit adjustment to such owner, occupant or consumers billing charges for an amount in excess of the average bill for the premises, for a period not to exceed two months, as may be deemed fair and reasonable at the county's sole discretion. A maximum of fifty percent credit on such excess charges, based on the leak volume as calculated in Sec. 16.1-11(c), may be allowed, provided however, if it is determined that the excess water consumed due to the leak did not enter into the sanitary plumbing, a maximum of a one hundred percent credit on excess charges based on the above referenced leak volume may be allowed. Only one adjustment credit may be allowed for the same premises within six consecutive months. (6-20-13, 9-19-19.)

Editor's Note: Ord. No. 2013-11-C, adopted June 20, 2013, amended § 14-14 in its entirety to read as herein set out. Former § 14-14 pertained to billings generally and derived from an ordinance adopted May 21, 2009.

Article III. - Connection Charges.

Sec. 14-20. - Charges generally.

- (a) Prior to the connection of any premises, building or dwelling unit to a county sewer system, the applicant shall pay connection and tap fees based on the size of water meter service and shall be as set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended. When the meter size of the connection exceeds the sizes set forth in the fee schedule, the applicant shall be required to pay a connection fee as determined by the county.
- (b) Following an application for service within ninety days of the official connection notice, including payment of fees, the connection fees due will be reduced to one-half of the connection fee amounts set forth in the current rate schedule for properties that are developed at the time of the official connection notice.
- (c) Reserved.
- (d) For a meter serving one or more units, the connection fee shall be charged for these types of buildings: Single-family, duplexes, houses, apartments, condominiums, mobile home parks, etc.; hotel, motel, travel trailer complex, hospital, nursing home, etc.; commercial businesses, office, industrial, public buildings and all others.
- (e) Any premises, building or dwelling unit to be connected directly to the HRSD system, prior to sewer service becoming available, shall pay one-half of the applicable county connection fee prior to connection to the HRSD system.
- (f) Any premises, building or dwelling unit to be connected to the county sewer system shall pay in addition to the county connection fee, the applicable Hampton Roads Sanitation District or Smithfield or Franklin fee which may from time to time be adjusted by these entities.
- (g) It is the intent of this section that connection and tap fees be paid on a per unit basis whether each unit is individually metered or a master meter is installed for more than one unit.



- (h) In those situations in which the premises, building or dwelling unit is served by either an unmetered water service provided by the county or by a privately owned water system, the sewer connection fee shall be based on the equivalent water meter size that would be required to serve such premises, building or dwelling unit. Such determination of equivalent meter size shall be made by the department of utility services.
- (i) If the payment of a connection fee is required by the provisions of this article then no building permit or other similar permit shall be issued by the county until the required connection fee is paid in full.
- (j) No connection fee shall be required when connection is to be made to an existing lateral previously used by another building when no work is required by the county to ready said lateral for connection. (5-21-09; Ord. No. 2013-11-C, 6-20-13; 5-1-14, 9-19-19.)

#### Article IV. - Required Use of Sewers and Responsibility of Property Owners.

##### Sec. 14-23. - Mandatory connection—generally.

Where sewer service is available new development shall connect to the county sewer system. Where service becomes available by virtue of extending the county system to serve other subdivisions or neighborhoods, connection to the county sewer system shall not be mandatory. All premises, buildings or dwelling units connected directly to the HRSD system may elect not to connect to the sewer system, however, payment of all remaining balances of applicable fees and charges owed to the county shall be required. Sewer is deemed to be available to the property to be connected if service can be provided without unreasonable cost or unusual construction techniques. Availability of sewer may be declared by the director of utility services based on costs to provide service, construction techniques or other unusual conditions. (5-21-09; Ord. No. 2013-11-C, 6-20-13, 9-19-19.).

#### Article V. - Applications for Service.

##### Sec. 14-29. - Who shall apply.

Any property owner desiring the introduction of a service connection from the main to the curb or property line shall first make written application on a form furnished by the county. (5-21-09.) Sec. 14-30. - Plan to accompany application.

Each application shall be accompanied by a plan of the proposed service and payment of the required fees to the county. No work shall commence or service

permitted until an approved application has been returned to the applicant by the county. (5-21-09.) Article VI. - Building Service Connections.

Sec. 14-33. - Conditions to be fulfilled.

No person shall make or cause to be made a connection of any improved property with the sewer system until such person shall have fulfilled each of the following conditions:

- (a) Such person shall have notified the department of inspections of the desire and intention to connect to the sewer system, and shall have otherwise satisfied any county requirements respecting such connections;
- (b) Such person shall have applied for, and obtained, a permit;
- (c) Such person shall have given the county and the department of inspections of the county at least twenty-four hours' prior notice of the time when such connection will be made so that the county may supervise and inspect the work of connection and necessary testing;
- (d) Such person shall have furnished satisfactory evidence to the county that any connection fee, tap fee or special fee, charged and imposed by the county and other against the owner of each improved property who connects such improved property who connects such improved property to a sewer, has been paid;
- (e) Prior to issuance of a final certificate of occupancy, an inspection and approval from the department of utility services is required;
- (f) The person desiring sewer service shall sign a contract prepared for that purpose prior to receiving sewer service. A separate contract shall be required for each premises;
- (g) When a sewer customer executes a contract for initial sewer service, or moves a sewer service account from one location to another, a fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended, shall be charged for establishing the new account and turning on the sewer at the new location, except as exempted herein;
- (h) All sewer service customers shall pay a deposit prior to the initiation of sewer service, except those exempted herein. The person desiring sewer service shall deposit with the county an amount equal to the average bill for that category of sewer customer for which sewer service, and any

other additional fees charged on the sewer bill, is being requested for four months. The amount of said deposit shall be determined administratively, and adjusted from time to time as necessary;

- (i) The contract and deposit may be transferred by the county from the location for which it was initially requested to any other location to which the applicant may move, if within the utility service area of the county;
- (j) A customer may be exempted from the payment of deposit or new account fee if:
  - (1) The customer was on private sewer system acquired by the county, and the acquisition included a deposit previously paid by the customer, which is transferred to the county with the acquisition of the sewer system;
  - (2) The customer was on a private sewer system acquired by the county, and the former owner of said system certifies to the satisfaction of the county as to the customer's satisfactory payment record; or
  - (3) A customer has established a satisfactory credit rating with the county via an existing or previous sewer account. (5-21-09; Ord. No. 2010-4-C, 3-24-10; Ord. No. 2013-11-C, 6-20-13; 5-1-14, 9-19-19.)

#### Article IX. - Collection of Fees, Charges, Etc.

##### Sec. 14-47. - Billing procedure—Generally.

The county shall cause the water or wastewater meter, where the sewer rent is based upon metered water or wastewater discharge, to be read on a regular basis and shall cause sewer rent bills to be mailed forthwith following each reading. In the event a meter reading cannot be obtained for a particular billing period, the sewer bill may be based upon estimated water usage or wastewater discharge, with an appropriate adjustment made upon subsequent meter readings. Sewer rent bills shall similarly be mailed on a periodic basis with respect to each property. The first sewer bill following connection to the sewer system may cover a period longer or shorter than the regular billing period (but not for a period longer than twelve months), and shall be prorated accordingly, if the county finds the same desirable in the administration of the billing procedure.

In the event of any billing error discovered, corrections may be made for the previous thirty-six-month billing period, at the discretion of the county treasurer

or director of utility services. (1-16-97; 7-17-03; 5-29-09; Ord. No. 2010-4-C, 3-24-10; Ord. No. 2013-11-C, 6-20-13, 9-19-19.)

Sec. 14-50. - Same—Disconnection notice and second billing notice; reconnections.

Disconnection notices shall be mailed after the due date set forth on the bill and disconnection services will be scheduled by the department of utility services. Such disconnection of service shall occur if payment, along with any applicable late fees, is not received within ten days from the date of such disconnection notice. Upon payment of all utility charges, service reconnection will be made within twenty-four hours of payment, between the hours of 8:30 a.m. and 4:00 p.m. of the next business day, except in emergency situations and/or severe weather conditions, which may delay such reconnection. (1-16-97; 7-17-03; 5-21-09; Ord. No. 2010-4-C, 3-24-10; Ord. No. 2013-11-C, 6-20-13, 9-19-19.)

Article XI. - Sewer Line Extensions and System Improvements.

Sec. 14-57. - Extensions.

- (a) The extension of sewer service by the county to properties within the county not currently receiving such service shall be accomplished in accordance with the following general principles:
  - (1) Extension shall be made in a manner so as to promote orderly growth, protect health and environment, serve requested extensions and promote the general public interest.
  - (2) Property owners shall bear their fair share for the cost of installing sewer extensions to and within their neighborhoods or other development type.
  - (3) The county shall be responsible for the maintenance, operation and control of sewer facilities after dedication and acceptance by the county.
  - (4) Unless specifically authorized by the board, extensions shall be considered only for properties located within the county's development service districts (DSD).
- (b) Any property owner desiring to have sewer service extended to their residence shall apply in writing to the director of utility services. In the case of a defined neighborhood request, a minimum of sixty-seven percent of the homeowners in the requesting neighborhood service area are required to sign

the request before it will be considered. The request(s) must be made by the legal title holder(s) for the property.

- (c) Extensions of sewer service to developed commercial or developed industrial property may be requested by a letter from the president, board chairman or principal of the corporation desiring service. The request shall be evaluated on the basis of the general principles in [subsection] 14-57(a).
- (d) Upon receipt of a valid application for sewer extension the county will evaluate application based on the following or similar criteria:
  - History of current sewer service failures;
  - Size of the requesting area/neighborhood or service area;
  - Risks to public health and the environment;
  - Availability of reasonable alternatives;
  - Cost to provide sewer service and the availability of funds.
- (e) Approval for the proposed construction of a sewer extension project must be obtained from the Isle of Wight Board of Supervisors following a recommendation for the project by the director of utility services. If the proposed project is authorized the DGS shall develop appropriate service area and budget level estimates of cost.
- (f) Mandatory connection. Upon approval of a sewer extension project, property owners will be required to sign documentation indicating a firm commitment to connect to sewer service when it becomes available and commitment to extension charges required for the project.
- (g) The county may extend sewer service at its own discretion in the following circumstances:
  - (1) To alleviate health and/or environmental concerns: When the Isle of Wight County Health Department certifies that a health problem exists in a certain area, the county may order the extension of sewer service to said area. The county may require assessments of property owners of said project service area under the same procedure set out in [subsection] 14-57(i).
  - (2) Greater public interest: The county board of supervisors may at its discretion or upon recommendation of the director of utility services, authorize the construction of sewer extensions where it deems said

construction to be in the greater public interest and in the general public welfare.

- (h) Residential property owners in which sewer service is extended will be required to pay their fair share of the cost of extending this service, including design, permitting and construction-related costs. The county, at its discretion, may share in the cost of providing such service, specifically if said extension is anticipated to service future development in the service area.
- (i) The extension charge to property owners shall be based on the total project costs, less any county share, allocated to property owners based on property water meter size in accordance with the American Water Works Association (AWWA) standard meter equivalents.

Meter	Equivalent
5/8 -inch	1.0
¾-inch	1.5
1-inch	2.5
1½-inch	5.0
2-inch	8.0
3-inch	16.0
4-inch	25.0

- (j) Payments or county suitable payment arrangements of extension charges are due and payable before initiation of the sewer extension project.
- (k) The county may, at its discretion, finance extension charges for a period not to exceed ten years. Interest charges associated with, the financing shall correspond with the county debt used to complete the extension project. For property choosing to finance extension charges, a lien shall be placed upon the property until such time the extension charges are paid in full.

- (l) Upon transfer of title of any property with an outstanding balance associated with financed sewer extension charges, these charges shall be paid in full.
- (m) Extension charges represent a cost separate from county connection and tap fees. Connection and tap fees or county suitable payment arrangements are due and payable from the connection property owner at the time of connection. (5-21-09; Ord. No. 2013-11-C, 6-20-13, -- --19.)

Sec. 14-61. - Same—Determinations by director of utility services.

Petitions and corporate letters may be referred by the board of supervisors to the director of utility services for determination of affected property owners or area and for feasibility review. The director of utility services shall recommend a course of action to the board of supervisors based on review findings and recommendations. (5-21-09; Ord. No. 2013-11-C, 6-20-13, 9-19-19.)

Article XV. - Use of Public Sewer System.

Sec. 14-94. - Definitions.

Brown grease\ shall mean floatable fats, oils, grease and settled solids produced during food preparation that are recovered from grease control devices.

Enforcement response plan\ shall mean a system that sets forth the process and procedures for enforcement of this section by the County of Isle of Wight.

Fats, oils, and grease (FOG)\ shall mean material, either liquid or solid, composed of fats, oil or grease from animal or vegetable sources. Examples of FOG include, but are not limited to, kitchen cooking grease, vegetable oil, bacon grease and organic polar compounds derived from animal and/or plant sources that contain multiple carbon triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations at 40 CFR Part 136, as may be amended from time-to-time. FOG may be referred to herein as "grease" or "greases".

Food service establishment (FSE)\ shall mean any commercial, industrial, institutional, or food processing facility discharging kitchen wastewaters or food preparation wastewaters including, but not limited to, restaurants, commercial kitchens, caterers, motels, hotels, correctional facilities, prisons or jails, cafeterias, care institutions, hospitals, schools, bars and churches. Any establishment engaged in preparing, serving or otherwise making food available for consumption by the public shall be included. Such establishments use one or

more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and other food preparation activity that produces a hot, nondrinkable food product in or on a receptacle that requires washing.

Grease control device (GCD)\ shall mean a device used to collect, contain, or remove food waste and grease from the wastewater while allowing the remaining wastewater to be discharged to the county's sanitary sewer system by gravity. Devices include grease interceptors, grease traps, automatic grease removal devices or other devices approved by the director of utility services or his designee.

Grease hauler\ shall mean a collector who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services related to grease interceptor maintenance for a FSE.

Grease interceptor\ shall mean a structure or device, usually located underground and outside a FSE, designed to collect, separate and contain food waste and grease while allowing the wastewater to be discharged to the county's sanitary sewer system by gravity.

Grease removal device\ shall mean an active, automatic device that separates and removes FOG from effluent discharge and that cleans itself of accumulated FOG at least once every twenty-four hours utilizing an electromechanical apparatus.

Grease trap\ shall mean a device typically located indoors and under the sink or in the floor, designed for separating and containing grease prior to the wastewater exiting the trap and entering the sanitary sewer system. Such devices are typically passive (gravity fed) and compact with removable baffles.

Renderable FOG container\ shall mean a closed, leak-proof container for the collection and storage of yellow grease.

Yellow grease\ shall mean FOG used in food preparation that have not been in contact or contaminated with other sources such as water, wastewater or solid waste. An example of yellow grease is fryer oil, which can be recycled into products such as animal feed, cosmetics and alternative fuel. Yellow grease is also referred to as renderable FOG. (Ord. No. 2011-2-C, 1-6-11, 9-19-19.)

Sec. 14-95. - Registration requirements.



- (a) All FSEs shall be required to register their GCDs. .... Registrations shall be on forms provided by Isle of Wight Utility Services to ensure that such devices are properly sized and maintained, as well as to facilitate inspection in accordance with the requirements established by Isle of Wight Utility Services.
- (1) Existing FSEs shall register all GCDs within ninety days of the adoption of this ordinance. New establishments shall register when setting up their water and sewer service or prior to obtaining a certificate of occupancy.
  - (2) All grease haulers, owners, or employees servicing GCDs for FSEs within the County of Isle of Wight shall be required to obtain a certification to service GCDs from the Hampton Roads FOG regionally approved training program provided by the HRPDC.
  - (3) All grease haulers shall obtain the required permits, certifications and/or approvals from the facility in which waste will be disposed of. Grease haulers discharging to a Hampton Roads Sanitation District (HRSD) treatment plant shall be approved through the HRSD Indirect Wastewater Discharge Permit.
  - (4) FSEs shall have a current employee who has successfully completed the Hampton Roads FOG regionally approved best management practices training program provided by the HRPDC. (Ord. No. 2011-2-C, 1-6-11, 9-19-19.)

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Isle of Wight County Board of Supervisors, Virginia, that Chapter 16.1. Water of the Isle of Wight County Code be amended and reenacted as follows:

#### CHAPTER 16.1. - WATER.

##### Article I. - In General.

##### Sec. 16.1-1. - Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

Building or dwelling unit.\

- (1) Any single-family residential structure; or

- (2) Any combination of structures owned by one person, or jointly by a number of persons as co-tenants, joint tenants or tenants-by-the-entities and occupied as a residence; or
- (3) Each separately owned, leased or occupied part of structures physically connected in a series, whether the series be vertical or horizontal, such as row houses, townhouses, duplex houses, twin houses, condominiums, row of stores or physically connected commercial or industrial structures, etc.; or
- (4) Each apartment in, or each separately leased or occupied part of or to be separately leased or occupied part of any multiple occupancy structure; or
- (5) Any single and separate structure owned by one person or jointly by a number of persons as co-tenants, joint tenants or tenants-by-the-entities and used by the owner or single lessee or occupant thereof, only for agricultural, commercial, governmental or industrial purposes. The county reserves the right to determine itself the classification and use of any structure.

Consumer\ or customer. The person legally or equitably responsible for the payment of charges for water services rendered by the county.

Development.\ The improvement of zoned residential, commercial, industrial or public property in accordance with county land use, comprehensive and facilities planning.

Equivalent dwelling unit (EDU).\ The conversion, with respect to water consumption, of multiresidential connectors into their residential equivalents on the basis of water use established for a living unit consisting of three and five-tenths persons.

Improved property.\ Any property within the county upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which sanitary sewage or industrial wastes shall be or may be discharged.

New premises, building or dwelling unit.\ Any premises, building or dwelling unit constructed on property abutting a county water main provided, however, that such construction occurs after the installation of such water main.

Official connection notice.\ A notice, in letter form, sent by certified mail, return receipt requested, from the county to the owner of premises, buildings or

dwelling units abutting a county water main giving notice to the owner that the water main is available for connection thereto.

Owner.\ Any person vested with ownership, legal or equitable, sole or partial, of any property located in the county.

Parcel.\ An individual piece of real property, as formally set forth in a conveyance of real property, together with the boundaries thereof, as properly recorded in the Isle of Wight County Circuit Court Clerk's Office.

Plumbing code.\ The most current edition of the International Code Council, Inc. International Plumbing Code as it constitutes a part of the Virginia Uniform Statewide Building Code.

(11-21-96; 1-16-03; 5-21-09; Ord. No. 2010-6-C, 3-24-10; Ord. No. 2012-6-C, 6-28-12, 9-1919.)

Sec. 16.1-2.1. - Authority of department of utility services to enter contracts for water service; agreement.

- (a) The board of supervisors or their designated representatives shall have authority to execute on behalf of the county any contracts for water service as herein provided.
- (b) The board of supervisors or their designated representative is hereby authorized to enter into agreements on behalf of the county where unusual or complex situations exist that are not covered in this chapter.
- (c) The director of utility services is authorized to enter into water service agreements and execute water service contracts on behalf of the county subject to review and approval by the county attorney and which are consistent with county policy and procurement requirements. (5-21-09; Ord. No. 2012-6-C, 6-28-12, 9-19-19.) Article II. - Meters. Division 1. - Generally.

Sec. 16.1-7. - Installation of meters; faulty meters; testing.

All meters shall be approved, tested and sealed by the county before being available for service. After being installed no meter shall be removed or tampered with by any consumer or other person, and all meters shall be under the exclusive regulation of the county. In the event of a meter failing to register properly or being removed for testing or repairs, water bills will be rendered for an estimated amount based on the average consumption or the previous three periods when the meter was registering properly. In the event of a complaint, issued in writing,

by a consumer as to the accuracy of a meter, it shall be removed and tested by the county. If it is found to be correct, the consumer shall pay the cost of removing, testing and replacing the same. If found incorrect, such cost shall be borne by the county. Such complaint shall not justify or be used as an excuse for delay in the payment of bills rendered for water supplied. In determining the accuracy of a meter two percent slow or fast shall be the maximum allowance for over or under regulation. (5-21-09, 9-19-19.)

#### Division 2. - Service Charges.

##### Sec. 16.1-9. - Amounts—Generally.

Meter rates shall be determined on the following basis:

- (a) Except as otherwise provided in this chapter, meter rates shall be based on the volume of water used as measured by meters installed and maintained by the county;
- (b) Meter rates for water passing through meters are hereby imposed upon and shall be collected on a regularly scheduled basis from the owner or tenant of each improved property connected to the county water systems. Such charges shall be as follows: Meter rates shall be in accordance with the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended from time to time. The county reserves the right from time to time to amend the rates in order to ensure that the utility system remains self-sustaining.

(5-21-09; Ord. No. 2010-10-C, 6-17-10; Ord. No. 2011-9-C, 5-26-11; Ord. No. 2012-6-C, 6-28-12; Ord. No. 2012-7-C, 8-16-12; Ord. No. 2013-8-C, 6-20-13, 9-19-19.)

##### Sec. 16.1-10. - Same—Unmetered customers.

Charges for water service for unmetered customers shall be collected on a regularly scheduled basis from the owner or tenant of each improved property connected to the county water system. Such charges shall be effective as of the date of information of service by the county and shall be in accordance with the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended from time to time. (5-21-09, 9-19-19.)

#### Article III. - Billings.

##### Sec. 16.1-11. - Generally.

- (a) All accounts shall be billed on a cycle of not more than seventy days. Bills for water supplied, including charges for sewage disposal service and utility taxes based thereon, if any, are due and payable upon the date set forth therein. Late fees will be assessed commencing the next business day after the due date as indicated on the bill. Disconnection notices shall be mailed after the due date set forth on the bill and disconnection services will be scheduled by the department of utility services. Such disconnection of service shall occur if payment, along with any applicable late fees, is not received within ten days from the date of such disconnection notice. Upon payment of all utility charges, service reconnection will be made within twenty-four hours of disconnection, between the hours of 8:30 a.m. and 4:00 p.m. of the next business day, except in emergency situations and/or severe weather conditions, which may delay such reconnection. If payment is not received within the ten-day period, the county shall apply any deposits currently being held to the outstanding balance due and discontinue water service until payment of all outstanding balances, disconnect fee and a new deposit are paid in full.
- (b) Payment of such bills shall be made at any office or collection agencies or agencies established by the county for that purpose on the days and during the hours thereof such office or collection agencies are open for business. Payment of such bills at collection agencies and regulations and accounting procedures pertaining thereto shall be as prescribed by the county.
- (c) All water for which a charge is made under this section passing through a meter shall be charged for whether used, consumed or wasted; provided, however, for that where underground or inside leaks, or both, occur in water pipes, and the owner or occupant of such premises or the consumer thereof, after receiving written notice of excess consumption, shall: (1) have all necessary repairs made within 10 business days of such notice, (2) ~~shall~~ furnish the county with either a plumber's letter or a personal letter certifying that the repairs have been made and the date completed, and (3) ~~shall~~ have repairs reviewed and approved by utility personnel. The county may make credit to such owner, occupant or consumer of such portion of the excess consumption for the premises, for a period not to exceed two months, as may be deemed fair and reasonable at the county's sole discretion. A maximum of fifty percent credit on excess consumption charges based on the actual volume leaked as recorded through the County's meter may be allowed. The leak volume will be calculated as the result of the difference between the

total volume recorded during the period of leak less the average consumption from the previous month over the leak period. Should conditions occur where the actual leak volume is not available, the previous six month's average consumption will be used to calculate the leak volume. Only one adjustment credit may be allowed for the same premises within six consecutive months. Adjustments shall not be considered for disputed bills over six (6) months old.

- (d) In the event of any billing error discovered, corrections may be made for the previous thirty-six-month billing period, at the discretion of the county treasurer and director of utility services .
- (e) Should any customer obstruct the ability of utility personnel to read meters or disconnect service said customer shall be responsible for all cost associated to perform task. (11-21-96; 1-16-03; Ord. No. 2010-6- C, 3-24-10; Ord. No. 2012-6-C, 6-28-12; Ord. No. 2013-8-C, 6-20-13, 9-19-19.)

Sec. 16.1-12. - Service disconnection.

- (a) When water service to any premises has been disconnected by the county, for any reason, water service shall be reconnected only by an authorized representative of the county. If water service is disconnected for nonpayment of a county utility billing as provided in section 16.1.11, then a reconnection fee as set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended from time to time. shall apply for each disconnection in addition to the payment of the outstanding water bill, any outstanding late charges by the customer to the county, and the water service customer shall pay a deposit, as specified in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended from time to time. If water service to any location is reconnected without express authorization by the county, in addition to any legal remedy which the county may pursue for such illegal reconnection, then an additional fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended, for a line inspection shall apply. The payment of said line inspection fee shall be in addition to any fine or settlement secured as a result of any such legal action. All costs to repair any damage as a result of the illegal connection shall be the responsibility of the customer.
- (b) Such fees and penalties shall not apply to any disconnections made for line maintenance or at the request of the customer. (11-21-96; 1-16-03; Ord. No.

2010-6-C, 3-24-10; Ord. No. 2012-6-C, 6-28-12; Ord. No. 2013-8-C, 6-20-13; 5-1-14, 9-19-19.)

#### Article IV. - Connections.

##### Sec. 16.1-15. - Charges generally.

- (a) Prior to the connection of any premises, building or dwelling unit to a county water main, the applicant shall pay a connection and tap fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended. The connection charges shall be determined by the meter size for domestic use only. When the size of the connection exceeds the sizes set forth in the uniform fee schedule, the applicant shall be required to pay an installation/connection fee as determined by the county.
- (b) For new developments in which the required water system and related appurtenances have been installed by the owner/developer and in which the ownership of the water system and related appurtenances has been conveyed to the county, up to and including two inches, the owner/developer shall provide to the county the required number of water meters at the appropriate sizes and types specified by the county for future installation by the county. Such meters shall be delivered to a location designated by the county. For all such connections above two inches, the meter shall be installed by the developer, pursuant to county specifications. Upon completion of the installation, the developer shall notify the county for inspection and activation of the meter.
- (c) When application for service, including payment of connection fees, for existing single-family residential services is made within ninety days after receipt of official county connection notice, the connection fees due will be reduced to one-half of the amounts in subsection (a) of this section, or as otherwise approved by the director of utility services.
- (d) When the application for residential connection is made within ninety days of receipt of the official county connection notice, the applicant may pay the connection fees at a rate of twenty percent (minimum) down, paid at the time of making application and the remainder to be due and payable in equal bimonthly payments over a two-year period, together with interest thereon at the rate of eight percent per annum. Application for installment payments shall only apply to residential connections and must be made during the initial

ninety-day period. Installment payments due shall constitute a lien against the property. Surety shall be in a form acceptable to the county attorney. A contract for payment of the connection fee on an installment basis must be signed by both the property owner and the county. Failure of the property owner to pay the installment when due shall cause the imposition of a penalty of one and one-half percent per month and the county may, at its option, upon such failure declare the entire outstanding balance to be due and payable along with any expenses incurred by the county in the collection thereof. Failure on the part of the property owner to pay the installment when due shall also prejudice the property owner's right to finance any additional connection fees on an installment basis. Upon execution of the installment contract between the county and the property owner, the county shall cause the property owner to be billed on a periodic basis and provide for the collection thereof. Payment by the property owner must be no less than the amount billed but may be for the full amount outstanding. Partial payment for the minimum amount billed will not be accepted nor will partial payment for any outstanding balance be accepted.

- (e) No connection fee shall be required when connection is to be made to an existing service previously used by another building when no work is required by the county to ready said service for connection.
- (f) Projects served by master meter may be: Single-family, duplexes, apartments, condominiums, mobile home parks, hotel, motel, travel trailer complex, hospital, nursing homes, shopping centers, strip malls, etc.
- (g) Upon payment of the connection fee, the county will install water line taps and service lines for residential connections that do not exceed a three-quarter-inch meter size at no cost to the owner of the improved property to be connected. Charges for water line taps that require the work of subcontractors to the county will be billed to the owner of the improved property at the actual cost of service. The owner shall indemnify and save harmless the county from all loss or damage that may be occasioned, directly or indirectly, as a result of construction to install the residential water service.
- (h) All costs and expenses to install all other water services shall be borne by the owner of the improved property to be connected and such owners shall indemnify and save harmless the county from all loss or damage that may be occasioned, directly or indirectly, as a result of construction to install the water service. (11-21-96; 6-17-99; 4-25-00; 9-20-01; 6-20-02; 1-16-03; Ord.



No. 2010-6-C, 3-24-10; Ord. No. 2012-6-C, 6-28-12; 5-1-14, 9-19-19.) Sec. 16.1-16. - Application for connection.

Any person desiring to secure water service shall file a signed application therefore at the county on the prescribed form, stating the location and character of the premises for which service is desired. The owner/applicant shall determine the proper meter size and location of each new connection. The county shall own and maintain all facilities installed in making the connection up to and including the meter. (5-21-09; Ord. No. 2012-6-C, 6-28-12, 9-19-19.)

Sec. 16.1-17. - Conditions of service.

All customers of water shall be supplied upon the terms of and shall comply with the following before water is supplied to the premises:

- (a) The customer desiring water service shall sign a contract prepared for that purpose prior to receiving water service. A separate contract shall be required for each premises.
- (b) When a customer executes a contract for initial water service, or moves water service account from one location to another, a new account fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended, shall be charged for establishing the new account and turning on the water at the new location, except as exempted herein.
- (c) All customers shall pay a deposit prior to the initiation of water service, except those as exempted herein. The customer desiring water service shall deposit with the county an amount equal to the average bill for that category of water customer for which water service is being requested, including charges for sewer service and utility taxes based thereon, if any, for four months. The amount of said deposit shall be as set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended from time to time.
- (d) The contract and deposit may be transferred by the county from the location for which it was initially requested to any other location to which the applicant may move, if within the utility service area of the county.
- (e) A customer may be exempted from the payment of deposit (section 16.1-17(c)) or new account fee (section 16.1-17(b)) if the customer was on a private water system acquired by the county, and the acquisition

included a deposit previously paid by the customer, which is transferred to the county with the acquisition of the water system.

- (f) Any deposits paid by a water service customer and held by the county shall be returned, upon request, without interest, after said deposit has been held by the county for six consecutive billing cycles provided said account has not been delinquent during this period. Should the account become delinquent at any time during said six consecutive billing cycles, the deposit shall be retained by the county until six consecutive billing cycles have occurred without any delinquency in payments. Upon the satisfactory completion of the six consecutive billing cycles said deposits may be credited to the next bill, provided all outstanding debts have been paid for all county services and taxes.
- (g) In addition to fees charged for termination of service for nonpayment, the county may charge an additional administrative fee to cover cost associated with the collection of accounts as may be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it may be amended.
- (h) On a yearly basis, the Isle of Wight County Treasurer's Office shall prepare a list of accounts deemed to be uncollectible. Said list shall be reviewed and approved by the finance department and the county administrator. Upon approval of the county administrator these uncollectible funds shall be administratively written off in accordance with acceptable accounting methods.
- (i) All customers desiring new water service are responsible for making certain the plumbing on the private side of the water meter meets the most current plumbing code.
- (j) All customers are responsible for their plumbing on the private side of the water meter including any improvements or modifications made necessary by connection to the county system or to accommodate county-initiated system changes. (11-21-96; 7-17-03; Ord. No. 2010-6-C, 3-24-10; Ord. No. 2012-6-C, 6-28-12; 5-1-14, 9-19-19.)

#### Article V. - Fire Protection.

##### Sec. 16.1-24. - Prohibited use of hydrants.

Fire hydrants are provided for the sole purpose of extinguishing fire, and all persons except authorized personnel of the department of emergency services, county, department of utility services or such persons as may be specially authorized by the county administrator are hereby prohibited from opening or using the same. Any person authorized to open fire hydrants shall use only an approved spanner wrench, and shall replace the caps on the outlets when not in use. (5-21-09; Ord. No. 2012-6-C, 6-28-12, 9-19-19.) Article VII. - Water Line Extensions and System Improvements Within Currently Defined Development Service Districts and Other Designated Areas.

Sec. 16.1-27. - Extensions.

- (a) The extension of water service to a county residence not currently receiving such service shall be accomplished in accordance with the following general principles:
  - (1) Extension shall be made in a manner so as to promote orderly growth, protect health and environment, serve requested extensions and promote the general public interest.
  - (2) Property owners shall be responsible for the cost of installing sewer extensions to and within their neighborhoods.
  - (3) The county shall be responsible for the maintenance, operation and control of water facilities after dedication and acceptance by the county.
- (b) Any property owner or neighborhood community desiring to have water service extended to their residence shall apply in writing to the director of utility services. In the case of a neighborhood request, a minimum of sixty-six and seven-tenths percent of the homeowners in the requesting area are required before the request will be considered. The request(s) must be made by the legal titleholder(s) for the property.
- (c) Extensions of water service to commercial or industrial property may be requested by a letter from the president, board chairman or principal of the corporation desiring service.
- (d) Applications shall contain information and plans in sufficient detail to enable the director of utility services to determine the adequate size of facilities necessary for the proposed extension and anticipated future growth.

- (e) Approval for construction of a water extension project must be obtained from the Isle of Wight Board of Supervisors following recommendation for the project by the director of utility services.
- (f) Upon approval of a water extension project, property owners will be required to sign documentation indicating a firm commitment to connect to water service when it becomes available and commitment to extension charges required for the project.
- (g) The county may extend water service at its own discretion in the following circumstances:
  - (1) To alleviate health and/or environmental concerns: When the Isle of Wight County Health Department certifies that a health problem exists in a certain area, the county may order the extension of water service to said area. The county may require assessments of property owners of said area under the same procedure set out in subsection 16.1-27(i).
  - (2) To serve requested projects: Upon receipt of a valid application for sewer extension, the county may order the extension of water service to the applying area. The county will evaluate application based on the following or similar criteria:
    - History of current water service failures;
    - Size of the requesting area/neighborhood;
    - Risks to public health and the environment;
    - Availability of reasonable alternatives; and cost to provide water service.The property(ies) to be served will be assessed under the same procedure set out in subsection 16.1-27(i).
  - (3) Greater public interest: The county board of supervisors may at its discretion or upon recommendation of the director of utility services, authorize the construction of water extensions where it deems said construction to be in the greater public interest and in the general public welfare.
- (h) Property owners in which water service is extended will be required to pay for the cost of extending this service, including design, permitting and construction related costs. The county, at its discretion, may share in the cost

of providing such service, specifically if said extension is anticipated to service future development in the service area.

- (i) The extension charge to property owners shall be based on the total project costs, less the county's share, allocated to property owners based on property water meter size in accordance with the American Water Works Association (AWWA) standard meter equivalents.

Meter	Equivalent
5/8 "	1.0
¾"	1.5
1"	2.5
1½"	5.0
2"	8.0
3"	16.0
4"	25.0

- (j) Payments of extension charges are due before initiation of the water extension project.
- (k) The county may, at its discretion, finance extension charges for a period not to exceed ten years. Interest charges associated with the financing shall correspond with the county debt used to complete the extension project. For property choosing to finance extension charges, a lien shall be placed upon the property until such time the extension charges are paid in full.
- (l) Upon transfer of title of any property with an outstanding balance associated with financed water extension charges, these charges shall be paid in full.
- (m) Extension charges represent a cost separate from county connection fees. Connection fees are due from the connection property owner at the time of connection. (5-21-09; Ord. No. 2012-6-C, 6-28-12, 9-19-19.) Sec. 16.1-29. - Same—Determinations by department of utility services.

Such petitions and corporate letters may be referred by the board of supervisors to the department of utility services for determination of affected property owners or area and for feasibility review. The department of utility services shall recommend a course of action to the board of supervisors based on review findings and recommendations. (5-21-09, 9-19-19.)

Article VIII. - Emergency Procedures During Water Shortages.

Sec. 16.1-37. - Procedures.

- (a) The board of supervisors finds that when there exists an immediate potential for a shortage of potable water in the County of Isle of Wight's water system that increasingly more restrictive conservation measures may be required to prevent a crucial water shortage.
- (b) The director of utility services is hereby directed to implement conservation measures at such times by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising his discretionary authority and making the determinations set forth herein, the director of utility services shall give due consideration to water levels, available/usable storage on hand, draw down rates, the projected supply capability in water sources available to the system, system purification and pumping capacity, daily water consumption and consumption projections of the system's customers, prevailing and forecasted weather conditions, fire service requirements, pipeline conditions including breakage, stoppages and leaks, supplementary source data, estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.
- (c) The provisions of this article or regulations promulgated hereunder by the director of utility services which are hereby authorized, shall not apply to any governmental activity, institution, business or industry which shall be declared by the director of utility services, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment.
- (d) Upon a determination by the director of utility services of the existence of the following conditions, the director of utility services shall take the following actions:

- (1) Condition 1. When moderate but limited supplies of water are available, the director of utility services shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever methods available.
- (2) Condition 2. When very limited supplies of water are available, the director of utility services shall order curtailment of less essential usage of water, including, but not limited to, one or more of the following:
  - (A) The watering of shrubbery, trees, lawns, grass, plants or any other vegetation, except indoor plantings, greenhouse or nursery stocks and except watering by commercial nurseries of freshly planted plants upon planting and once a week for five weeks following planting;
  - (B) The washing of automobiles, tracks, trailers, boats, airplanes, or any other type of mobile equipment, excepting in facilities operating with a water recycling system approved by the director of utility services provided, however, that any facility operating with a water recycling system shall permanently display in public view a notice approved by the director of utility services stating that such recycling system is in operation. In lieu of the provisions hereof, the department of utility services may curtail the hours of operation of commercial enterprises offering such services in washing their own equipment;
  - (C) The washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces;
  - (D) The operation of any ornamental fountain or other structure requiring a similar use of water;
  - (E) The filling of swimming and/or wading pools, or the refilling of swimming and/or wading pools which were drained after the effective date of the director of utility services order;
  - (F) The use of water from fire hydrants for any purpose other than fire suppression or other public emergency.
- (3) Condition 3. When critically limited supplies of water are available, the director of utility services shall institute mandatory reductions to each customer as follows:

- (A) Industrial, institutional, commercial, governmental, wholesale and all other nonresidential customers shall be allotted a percentage reduction based on their average monthly and/or previous bimonthly consumption;
  - (B) Individual residential customers shall be limited to a specific volume or percentage reduction of water per quarter;
  - (C) If the allotted monthly and/or bimonthly water usage is exceeded, the customer shall be charged two dollars for every one hundred gallons of water consumed above the allotted volume. Where prior consumption data is not available, the director of utility services shall estimate allocations based upon the data available from similar activities of equal intensity.
- (4) Condition 4. When only crucial supplies of water are available, the director of utility services shall restrict the use of water to purposes which are absolutely essential to life, health and safety. (5-21-09, 9-19-19.)

Sec. 16.1-38. - Written report required.

The determination of Conditions 2, 3 and 4 by the director of utility services shall be accompanied by a written report which shall set out criteria utilized and data relied upon in making such determination including a narrative summary supporting the determination. Each report shall be promptly filed with the county clerk who shall make the same available for public inspection. The director of utility services shall forthwith transmit a copy of each report to the board of supervisors. (5-21-09, 9-19-19.)

Sec. 16.1-39. - Penalties for noncompliance.

- (a) Any person who shall violate any provision of this article, or any of the conservation regulations promulgated by the director of utility services pursuant thereto, shall, upon conviction thereof, in addition to additional charges and/or other actions set forth herein, be fined not more than five hundred dollars. Each act or each day's continuation of a violation shall be considered a separate offense.
- (b) In addition to the foregoing, the director of utility services may suspend water service to any person violating the provisions of this article or the regulations promulgated hereunder. If such water service is terminated, the person shall pay a reconnection fee as shall be set forth in the Isle of Wight County Uniform Fee Schedule, as adopted by the board of supervisors, as it



may be amended, plus all outstanding fines and fees before service will be restored. In the event reconnection is requested after normal business hours, additional administrative fees may apply as determined by the director of utility services. (5-21-09; 5-1-14, 9-19-19.)

Sec. 16.1-40. - Notice of cessation of emergency.

The director of utility services shall notify the board of supervisors when the resource shortage is over and the emergency situation no longer exists. (5-21-09, 9-19-19.)

The motion was adopted unanimously (5-0).

#### COUNTY ADMINISTRATOR'S REPORT

County Administrator Keaton briefed the Board regarding the County's credit rating upgrade from Standard & Poors and Moody's Investors.

County Administrator Keaton addressed the Board regarding items to be discussed at its upcoming retreat to include a presentation by permitting staff; department heads top priorities; the fire and rescue advisory panel; and, prioritization of Board items in the afternoon.

Supervisor Grice suggested assigning a priority to the list of items the Board would like to see addressed going forward.

Supervisor Acree recommended beginning the retreat with presentations and briefings. He suggested that in addition to a briefing from the fire and rescue advisory panel, the Board also receive a briefing on current patrol staffing and programs the Sheriff would like to educate the Board about.

Regarding Supervisor Acree's recommendation to invite to the retreat all commissions that are working on projects, to include the Planning Commission and the Economic Development Authority members, it was the consensus of the Board to do that at a future work session.

Assistant County Administrator Robertson introduced the 2020 Legislative Priorities.

The Board requested that *House Bill 1804* and Companion Programs for Senior Adults be included in the priorities. The Board was requested to convey any other thoughts on to staff.

Under matters for the Board's information, County Administrator Keaton clarified for Supervisor Grice that the Treasurer's cash report should have been the July 2019 report.

#### UNFINISHED/OLD BUSINESS

County Administrator Keaton reported that all issues have been resolved with the Towns of Smithfield and Windsor regarding a proposed shared technology use agreement between the County and the towns and it is ready for execution.

Chairman McCarty moved, and it was unanimously adopted (5-0), that the Board authorize execution of a Shared Technology Use Agreement, along with the following resolution, between the *Town of Windsor* and Isle of Wight County:

#### RESOLUTION TO ESTABLISH A MEMORANDUM OF UNDERSTANDING FOR SHARED TECHNOLOGY USE BETWEEN ISLE OF WIGHT COUNTY AND THE TOWN OF WINDSOR

WHEREAS, there is increased demand on technology services; and,

WHEREAS, the employees, Town, County and citizens may benefit by the efficient sharing of technology resources and staff; and,

WHEREAS, cooperative use of technology services may be a more efficient use of public funds.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors and Town Council, that the County and Town support the establishment of a memorandum of understanding for Shared Technology Use between the County and Town to encourage maximum efficiency in the Technology operations for Town and County IT on the part of the public employees and citizens of Isle of Wight County.

Chairman McCarty moved, and it was unanimously adopted (5-0), that the Board authorize execution of a Shared Technology Use Agreement, along with the following resolution, between the *Town of Smithfield* and Isle of Wight County:

RESOLUTION TO ESTABLISH A MEMORANDUM OF UNDERSTANDING FOR  
SHARED TECHNOLOGY USE BETWEEN ISLE OF WIGHT COUNTY AND THE  
TOWN OF SMITHFIELD

WHEREAS, there is increased demand on technology services; and,

WHEREAS, the employees, Town, County and citizens may benefit by the efficient sharing of technology resources and staff; and,

WHEREAS, cooperative use of technology services may be a more efficient use of public funds.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors and Town Council, that the County and Town support the establishment of a memorandum of understanding for Shared Technology Use between the County and Town to encourage maximum efficiency in the Technology operations for Town and County IT on the part of the public employees and citizens of Isle of Wight County.

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Rusty Jordan, Department of Social Services Director, presented a follow up of the last work session regarding funding for the Companion Program and the four recommended alternative courses of action.

The consensus of the Board was course of action #3, to provide limited funding (\$56,900), discontinuing service delivery of the "Companion Program" at the end of FY2020 (In future years use designated funding for prevention).

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At the suggestion of County Attorney Jones, Supervisor Grice moved to authorize the issuance of Invitation for Bids for the north and south parcels of the Blackwater River property for hunting. The motion unanimously passed (5-0).

## NEW BUSINESS

Upon motion of Chairman McCarty, the Board unanimously (5-0) adopted the following resolution Honoring Military Veterans, including Lt. Colonel Charity Adams Early and the Women of the 6888<sup>th</sup> Central Post Office at Battalion:

### RESOLUTION TO HONOR MILITARY VETERANS

WHEREAS, Veterans Day is a federal holiday designated annually to honor military veterans who have served in the United States Armed Forces and preserved the quality of life and rights all Americans enjoy; and,

WHEREAS, brave men and women have served honorably and with distinction in numerous military conflicts throughout the world, including World War II, the largest and deadliest war in modern history; and,

WHEREAS, one such example was Lieutenant Colonel Charity Adams Early, the first African-American woman to be an officer in the Women's Army Auxiliary Corps; and,

WHEREAS, Lieutenant Colonel Early was chosen to be the commanding officer of the first battalion (6888<sup>th</sup> Central Post Office Battalion) of African-American women to serve overseas during World War II; and,

WHEREAS, Lieutenant Colonel Early and the members of her battalion made significant contributions to the morale and success of the Americans deployed overseas during World War II.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Isle of Wight, Virginia celebrates and honors the legacy and service of all military veterans of who have served in the United States Armed Forces.

BE IT FURTHER RESOLVED that the Board of Supervisors honors and recognizes the contributions of Lieutenant Colonel Charity Adams Early and the women of the 6888<sup>th</sup> Central Post Office Battalion during World War II.

Upon motion of Chairman McCarty, the Board unanimously (5-0) adopted the resolution requesting the General Assembly continue funding for the Stormwater Local Assistance Fund (SLAF):

RESOLUTION TO REQUEST THE GENERAL ASSEMBLY CONTINUE FUNDING FOR  
THE STORMWATER LOCAL ASSISTANCE FUND

WHEREAS, the Board of Supervisors of the County of Isle of Wight, Virginia has adopted core values that include preservation and protection of the County's bountiful mix of natural resources; and,

WHEREAS, the Virginia General Assembly provides funding to localities via Stormwater Local Assistance Fund (SLAF) grants to support local efforts to reduce non-point source pollution from stormwater runoff; and,

WHEREAS, Isle of Wight County has significantly benefitted from the availability of SLAF grants in its efforts to protect local waterways and assist in cleanup of the Chesapeake Bay.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Isle of Wight, Virginia supports the continued availability of SLAF grants and requests the General Assembly to provide sufficient funding to maintain the effectiveness of the water quality programs.

Upon motion of Supervisor Grice, the Board unanimously (5-0) gave the authorization to proceed with the evaluation of the County's permitting process. The evaluation will be conducted by The Timmons Group at the cost of \$26,500. "The Group" will assess strengths, weaknesses, identify areas that are effective, and areas for improvement.

Upon motion of Chairman McCarty, the Board unanimously (5-0) scheduled its annual retreat for Monday, September 30, 2019, 9:00 a.m. – 5:00 p.m. to be held at the Franklin Business Incubator.

Upon motion of Chairman McCarty, the Board unanimously (5-0) scheduled their next work session at 3:00 p.m. on Thursday, October 3, 2019 at the Windsor Town Center followed by a contractor's forum to begin at 6:00 p.m. at the same location.

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County Attorney Jones requested a closed meeting pursuant to Section 2.2-3711(A)(1) of the Code of Virginia concerning a discussion regarding the performance of a specific County employee.

Upon motion of Chairman McCarty and all voting in favor, the Board entered the closed meeting for the reason stated by County Attorney Jones.

Upon motion of Chairman McCarty and all voting in favor, the Board reconvened into open meeting.

County Attorney Jones reminded the Board that in accordance with Section 2-10(G) of the Board's Rules & Procedure, all those who participated in the closed meeting are reminded that all matters discussed in closed meeting are to remain confidential, as provided under the Virginia Freedom of Information Act, and that such matters as were discussed in closed meeting should not be acted upon or discussed in public by any participant unless and until a public, formal action of the Board of Supervisors is taken on that particular subject matter.

Upon motion of Supervisor Acree, the following Resolution was adopted:

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and,

WHEREAS, Section 2.2-3712(D) of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed

meeting were heard, discussed or considered by the Board of Supervisors.

VOTE

AYES: Acree, Rosie, Grice, Jefferson and McCarty

NAYS: 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

ADJOURNMENT

At 10:00 p.m., Chairman McCarty declared the meeting adjourned.

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William M. McCarty, Chairman

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Carey Mills Storm, Clerk