

with the following weapons unless shooting is expressly prohibited"; and it goes on to list just about everything we are all familiar with, including muzzleloading shotguns, muzzleloading rifles, and muzzleloading pistols, and places restrictions on the number of cartridges permitted in shotguns while hunting, unless otherwise allowed by Board regulations. Within it, it also addresses specific calibers of rifles; pointing out the strict control that the Commonwealth of Virginia maintains over this recognized right of the people. We are all aware of how hard the NRA and other groups have fought for the right to keep and bear arms. The Commonwealth of Virginia recognizes this and has acted accordingly in restricting what the local counties and cities can do on their own in writing ordinances that take away these rights. This is relevant in regards to this code.

State Law 29.1-528 is entitled GAME, INLAND FISHERIES AND BOATING (Board to develop model ordinances for hunting with firearms; counties or cities may adopt. Herein lies the problem. As the County Attorney has read, State Law reference prohibiting hunting with certain firearms, Code of Virginia, §29.1-528 does not contain those words or that meaning. Furthermore, within §29.1-528, you will find very explicit guidance in what the counties and cities are permitted to do by the Commonwealth of Virginia.

Under the Virginia Administrative Code 4VAC15-20-10 – Definitions; generally it states: Words and phrases used in any regulations made by the board shall have the same meaning, unless the context clearly indicates otherwise, as is given for such words and phrases in the Virginia Game and Inland Fisheries laws contained in Title 29.1 of the Code of Virginia. Although this Code is giving direction to the Board of Game and Inland Fisheries, I am sure that the same requirement is relevant when writing our own codes and, Our Code; Chapter 10, Article I, Section 10-26, does not meet this requirement.

(See handout provided)

Under the Virginia Administrative Code 4VAC15-270-90 – Model ordinances related to hunting with firearms for counties and cities, we find: Per the provisions of §29.1-528 A of the Code of Virginia, the following ordinances related to hunting with firearms may be adopted by counties and cities. (Let me paraphrase this and say that it could be rewritten to say: These are the only ordinances related to hunting with firearms that are permitted by the Commonwealth of Virginia that may be adopted by the counties and cities.) In accordance with §29.1-528 B of the Code of Virginia, no such ordinance shall be enforceable unless the governing body of the locality notifies the director by registered mail prior to May 1 of the year in which the ordinance is to take effect. Gentleman, time is of the essence. Furthermore, under the model ordinances, not one outlaws the use of muzzleloading rifles. Please feel free to review them for yourselves and you will come to the same conclusion as I, it is the goal of the Commonwealth of Virginia to permit the use of muzzleloading rifles in all counties where possible. This is reflective in the

fact that every other county in the Commonwealth of Virginia permits their use and is reinforced under the Constitution of Virginia, Article XI – Conservation, Section 4 – Right of the people to hunt, fish, and harvest game. It states: The people have a right to hunt, fish, and harvest game, subject to such regulations and restrictions as the General Assembly may prescribe by general law. This amendment was ratified Nov. 7, 2000 and effective Jan. 1, 2001. Let me also point out, that one of the model ordinances has been incorporated into Section 10-26 so this listing of model ordinances that may be adopted should be familiar with the county attorney. However, nowhere in the model ordinances does it list one that outlaws muzzleloader hunting.

(See handout provided)

Furthermore, under the Code of Virginia, Title 1 – General Provisions, Chapter 2.1 Common Law and Rules of Construction, §1-248 – Supremacy of federal and state law it states: The Constitution and laws of the United States and of the Commonwealth shall be supreme. Any ordinance, resolution, bylaw, rule, regulation, or order of any governing body or any corporation, board, or number of persons shall not be inconsistent with the Constitution and laws of the United States or of the Commonwealth. Does this not support my interpretation that our code must be consistent also?

(See handout provided)

Under the Virginia Administrative Code 4VAC15-270-20 – Rifles prohibited in hunting bear and deer in certain counties and cities, Southampton County is included. This is established by the state. I, personally, see a cause to challenge this decision but we would have to challenge it at a state level. We are not permitted to make these decisions, just as we are not permitted to make a code that outlaws the use of muzzleloaders. Every NRA member should be very concerned when gun owner rights are taken away. I must say that I am shocked that there is so much opposition to my views in a county where hunting is such a large part of our lives. I am, however, very grateful to live in a State that takes these rights very seriously and regulates who has the authority over them so strictly.

Under the Virginia Administrative Code 4VAC15-90-80 – Muzzleloading gun hunting; No mention of Southampton County is made in making muzzleloading hunting unlawful. It is not mentioned because the County does not have the authority to make it unlawful and the Commonwealth has not made it unlawful either, and I can only reason the Commonwealth does not want it that way. Without adopting one of two model ordinances regarding muzzleloader hunting, contained in 4VAC15-270-90, this is the authority we should be hunting under.

The Commonwealth is the governing body when it comes to the game of this state, of which are owned by the State and no one else. The deer and bear and all other wild animals are free to roam and therefore no one, including counties and cities, can claim ownership of these animals. The State has given its counties and cities limited authority, with very strict guidelines, to allow for local concerns.

Let's take a look at the authority given to the counties and cities:

They allow the counties and cities the right to adopt any, or all, of eight model ordinances in 4VAC15-270-90 if they feel so compelled by State Statute 529.1-528.

They allow counties and cities to rescind Virginia Administrative Code 4VAC15-270-20 – Rifles prohibited in hunting bear and deer in certain counties and cities. We are free to allow hunting with rifles and I would support this, as should every NRA member and hunter, in Southampton County. There are more accidents involving shotguns than either muzzleloaders or rifles. It has been proven safe across this country in rural counties.

They give local governments the authority to regulate the transportation of a loaded rifle or shotgun within 515.2-915.2.

They give the counties and cities the right to regulate the use of pneumatic guns in 515.2-915.4.

They give localities the right to prohibit shooting of compound bows, crossbows, longbows and recurve bows in 515.2-916.

They give the counties the ability to prohibit the outdoor shooting of firearms or arrows from bows in certain areas in 515.2-1209. However, they also give very explicit guidance on this matter.

They give the counties the ability to prohibit hunting in certain areas in 515.2-1210. However, they also give very explicit guidance on this matter also.

I can find no authority given by the state to the counties or cities to outlaw muzzleloader hunting. This is controlled by the state, and by the state alone, and is spelled out in the Virginia Administrative Code 4VAC15-90-80. The only choice left to the counties is to adopt one of the two model ordinances regarding muzzleloaders or no model ordinances at all. If none are adopted, the use of muzzleloaders is permitted as written in 4VAC15-90-80.

Now, I need to make a few public statements, for the record, that people have demanded of me. I do not own enough land in Southampton County to hunt. However, I am a citizen of both Southampton County and the Commonwealth of Virginia. Therefore; my hunting rights, as well as all taxpaying landowner rights, are protected by the Commonwealth of Virginia. Someday I

may own enough land to hunt, or I might be invited to hunt someone's land in the county of Southampton and I would like to know that my hunting rights are intact. Just like every other county in the Commonwealth, Southampton County must restore those rights as required by the laws of Virginia. Every gun owner should be very concerned about this and it is obviously a very relevant issue to the citizens of this county as shown by the turn out tonight.

Mr. Railey, I must now ask you; Do you find any errors in what I have found contained within the laws, statutes, Codes, or references that I have brought forward tonight?

IF YES then: Mr. Railey can you point out my errors? If these errors are correct, I offer my most heartfelt apologies to the citizens of Southampton County and to the board members for taking up your time.

IF NO then: Mr. Railey, for the record and to confirm what I have been told; Are you a Hunt Club Member hunting private property in Southampton County?

IF NO: Then I know you will give the board members the sound legal advice they will need to clear up this matter for the citizens of this county.

IF YES: Then I ask you to put aside any loyalty you may feel in representing the hunt club members in this matter and do your duty in representing the citizens of Southampton County in coming into compliance with the laws of the Commonwealth of Virginia. Misinterpretations may have occurred in the past but it can be cleared up now.

Mr. Railey, are you aware of any other laws, statutes, codes, or anything else, that would have an influence on the board's decision in this matter?

IF YES: Could you please inform me of them?

IF NO: Then our course is set, is it not?

As for the board members: Mr. Railey can only advise you, it is ultimately your responsibility to correct this matter. You are our elected officials. You have been elected to bring a change to the old way of doing things, and from the show of the number of people here tonight, it is time for you to do just that.

Once again, I ask that you quickly address this matter and ensure that the governing body in Richmond receives our changes by the deadline specified within the state statutes so that these regulations will be in place for the fall hunting season.

Board members, I have provided you a copy of all the information that I have been able to find regarding this matter, along with a copy of what I have said. I have also provided a copy to The

Tidewater News for their reference. I would like to say that I will provide additional copies to anyone who wishes to review them by simply contacting me.

I would like to see a show of hands, if I may; How many people here tonight are concerned, taxpaying, landowners of Southampton County who want to see this error corrected? The State is on your side, they want to see you have the greatest opportunity possible to hunt, fish, and harvest game. It is in our Constitution and it is the Supreme Law of Virginia.

Unfortunately, I have found no reference to hunt clubs in my research. Although I have nothing against them or their right to choose how they hunt, they really do not have a say in this matter. This matter is an issue between the state, the citizens, and every gun owner wanting to protect their right to hunt in a manner that they choose.

I will say, absolutely nothing that I have asked for tonight, will change the way the hunt clubs hunt. As I understand it, the landowners sign over their rights to hunting on specific parcels of land to the clubs. This gives the choice of how that property is going to be hunted to the clubs. There should be no problem, but we all know there is.

The only concern of theirs that makes sense, although it is not actually a real problem, is that the hunt club members do not want others to have the opportunity to take "their" deer before them. This is in fact hearsay because it is only what I have been told by non-hunt club members. However, as I said, it is the only concern that comes anywhere close to making some sense. The problem with this view point is that the hunt clubs do not own the deer; they are the property of the Commonwealth of Virginia and its taxpaying citizens.

One final note: I have full confidence in the newly elected board of supervisors to proceed in correcting this issue. Let this go no further than it already has and return the lawful choices to the taxpaying landowners of this county in regards to how they choose to hunt their own land.

I have spoken for a group of landowners tonight, I have spoken as a concerned citizen of this county, I have spoken for gun owners across this country, and I am now holding the board of supervisors to their due diligence in this matter.

Thank you for your time.

A handwritten signature in cursive script that reads "Bob Rudzik". The signature is written in black ink and is positioned below the typed text.

CODE OF THE COUNTY OF SOUTHAMPTON, VIRGINIA OF 1991

CHAPTER 10 – OFFENSES MISCELLANEOUS

ARTICLE I. – IN GENERAL

Section 10-26 Hunting weapons restricted

- (a) It shall be unlawful to hunt with a rifle larger than twenty-two one hundredths of an inch (.22) caliber rim fire except rifles of a larger caliber may be used for hunting groundhogs between March 1 and August 31;
- (b) It shall be unlawful to hunt with a muzzle-loading rifle at anytime;
- (c) It shall be unlawful to hunt with a muzzle-loading shotgun loaded with slugs or sabot slugs; and
- (d) Any person violating the provisions of this section, upon conviction, shall be guilty of a Class 3 Misdemeanor and shall be punished accordingly.

(Code 1976, § 11-36.1; Ord. of 3-24-03(2))

State law reference— Authority for above section, Code of Virginia, §§ 29.1-100, 29.1-519, and 29.1-528; prohibiting hunting with certain firearms, Code of Virginia, § 29.1-528.

CODE OF VIRGINIA

Title 29.1 - GAME, INLAND FISHERIES AND BOATING.

§ 29.1-100. Definitions.

As used in and for the purposes of this title only, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

"Bag or creel limit" means the quantity of game, fish or fur-bearing animals that may be taken, caught, or possessed during a period fixed by the Board.

"Board" means the Board of Game and Inland Fisheries.

"Closed season" means that period of time fixed by the Board during which wild animals, birds or fish may not be taken, captured, killed, pursued, hunted, trapped or possessed.

"Conservation police officers" means supervising officers, and regular and special conservation police officers.

"Department" means the Department of Game and Inland Fisheries.

"Director" means the Director of the Department of Game and Inland Fisheries.

"Firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material.

"Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

"Fur-bearing animals" includes beaver, bobcat, fox, mink, muskrat, opossum, otter, raccoon, skunk, and weasel.

"Game" means wild animals and wild birds that are commonly hunted for sport or food.

"Game animals" means deer, bear, rabbit, fox, squirrel, bobcat and raccoon.

"Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch, white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in streams which are blocked from access from tidewaters by dams.

"Hunting and trapping" includes the act of or the attempted act of taking, hunting, trapping, pursuing, chasing, shooting, snaring or netting birds or animals, and assisting any person who is hunting, trapping or attempting to do so regardless of whether birds or animals are actually taken; however, when hunting and trapping are allowed, reference is made to such acts as being conducted by lawful means and in a lawful manner. The Board of Game and Inland Fisheries may authorize by regulation the pursuing or chasing of wild birds or wild animals during any closed hunting season where persons have no intent to take such birds or animals.

"Lawful," "by law," or "law" means the statutes of this Commonwealth or regulations adopted by the Board which the Director is empowered to enforce.

"Migratory game birds" means doves, ducks, brant, geese, swan, coot, gallinules, sora and other rails, snipe, woodcock and other species of birds on which open hunting seasons are set by federal regulations.

"Muzzleloading pistol" means a firearm originally designed, made or intended to fire a projectile (bullet) from one or more barrels when held in one hand and that is loaded from the muzzle or forward end of the cylinder.

"Muzzleloading rifle" means a firearm firing a single projectile that is loaded along with the propellant from the muzzle of the gun.

"Muzzleloading shotgun" means a firearm with a smooth bore firing multiple projectiles that are loaded along with the propellant from the muzzle of the gun.

"Nonmigratory game birds" means grouse, bobwhite quail, turkey and all species of birds introduced into the Commonwealth by the Board.

"Nuisance species" means blackbirds, crows, cowbirds, grackles, English sparrows, starlings, or those species designated as such by regulations of the Board, and those species found committing or about to commit depredation upon ornamental or shade trees, agricultural crops, wildlife, livestock or other property or when concentrated in numbers and manners as to constitute a health hazard or other nuisance. However, the term nuisance does not include (i) animals designated as endangered or threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or fur-bearing animals, and (iii) those species protected by state or federal law.

"Open season" means that period of time fixed by the Board during which wild animals, wild birds and fish may be taken, captured, killed, pursued, trapped or possessed.

"Pistol" means a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having one or more chambers as an integral part of or permanently aligned with the bore and a short stock at an angle to and extending below the line of the bore that is designed to be gripped by one hand.

"Possession" means the exercise of control of any wild animal, wild bird, fish or fur-bearing animal, or any part of the carcass thereof.

"Properly licensed person" means a person who, while engaged in hunting, fishing or trapping, or in any other activity permitted under this title, in and upon the lands and inland waters of this Commonwealth, has upon his person all the licenses, permits and stamps required by law.

"Regulation" means a regulation duly adopted by the Board pursuant to the authority vested by the provisions of this title.

"Revolver" means a projectile weapon of the pistol type, having a breechloading chambered cylinder arranged so that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

"Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

"Transportation" means the transportation, either upon the person or by any other means, of any wild animal or wild bird or fish.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

(1952, c. 573, § 29-131; 1952, c. 608, § 29-2.1; 1962, c. 469; 1974, c. 302; 1979, c. 264; 1984, c. 199; 1987, cc. 134, 488; 1990, c. 371; 2002, c. 157.)

§ 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.

- A. All wild birds and wild animals may be hunted with the following weapons unless shooting is expressly prohibited:
1. A shotgun or muzzleloading shotgun not larger than 10 gauge;
 2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal through the loading end, so as to reduce the capacity of the gun to not more than three shells at one time in the magazine and chamber combined, unless otherwise allowed by Board regulations;
 3. A rifle, a muzzleloading rifle, or an air rifle;
 4. A bow and arrow;
 5. [Expired.]
 6. A crossbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306.1.
- B. A pistol, muzzle-loading pistol or revolver may be used to hunt nuisance species of birds and animals.
- C. In the counties west of the Blue Ridge Mountains, and counties east of the Blue Ridge where rifles of a caliber larger than .22 caliber may be used for hunting wild birds and animals, game birds and animals may be hunted with pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater and under the same restrictions and conditions as apply to rifles, provided that no cartridge shall be used with a bullet of less than .23 caliber. In no event shall pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater be used if rifles of a caliber larger than .22 caliber are not authorized for hunting purposes.
- D. The use of muzzle-loading pistols and .22 caliber rimfire handguns is permitted for hunting small game where .22 caliber rifles are permitted.
- E. The hunting of wild birds and wild animals with fully automatic firearms, defined as a machine gun in § 18.2-288, is prohibited.
- F. The hunting of wild birds or wild animals with (i) weapons other than those authorized by this section or (ii) weapons that have been prohibited by this section shall be punishable as a Class 3 misdemeanor.
- (Code 1950, § 29-140; 1962, c. 469; 1964, c. 441; 1974, cc. 108, 302; 1977, c. 377; 1983, c. 166; 1987, c. 488; 1988, c. 162; 1989, c. 421; 1993, c. 684; 1998, c. 144; 2002, c. 157; 2005, c. 8; 2007, c. 643.)

§ 29.1-528. Board to develop model ordinances for hunting with firearms; counties or cities may adopt.

- A. The Board shall promulgate regulations establishing model ordinances for hunting with firearms that may be adopted by counties or cities. Such model ordinances developed by the Board shall address such items as, but are not limited to, firearm caliber, type of firearm (e.g., rifle, shotgun, muzzleloader), and type of ammunition. The governing body of any county or city may, by ordinance, prohibit hunting in such county or city with a shotgun loaded with slugs, or with a rifle of a caliber larger than .22 rimfire. However, such ordinance may permit the hunting of groundhogs with a rifle of a caliber larger than .22 rimfire between March 1 and August 31. Such ordinance may also permit the use of muzzle-loading rifles during the prescribed open seasons for the hunting of game species. Any such ordinance may also specify permissible type of ammunition to be used for such hunting.
- B. No such ordinance shall be enforceable unless the governing body notifies the Director by registered mail prior to May 1 of the year in which the ordinance is to take effect.
- C. In adopting an ordinance pursuant to the provisions of this section the governing body of any county or city may provide that any person who violates the provisions of the ordinance shall be guilty of a Class 3 misdemeanor.

(1976, c. 443, § 29-144.6; 1977, cc. 20, 377; 1978, c. 303; 1986, c. 342; 1987, c. 488; 1989, c. 421; 2007, c. 642.)

§ 29.1-528.1. Board to develop model ordinances for hunting with bow and arrow; counties or cities may adopt.

- A. The Board shall adopt regulations establishing model ordinances for hunting deer with bow and arrow and crossbows in those counties and cities where there is an overabundance of the deer population, which is creating conflicts between humans and deer, including safety hazards to motorists. The model ordinances shall include (i) the times at which such hunting shall commence and end each day and (ii) the number of deer that can be taken based on analysis performed by the Department.
- B. No such ordinance shall be enforceable unless the governing body notifies the Director by registered mail prior to May 1 of the year in which the ordinance is to take effect. Any change jurisdictions may seek in the model ordinance shall be approved by the Board prior to its adoption.
- C. In adopting an ordinance pursuant to the provisions of this section, the governing body of any locality may provide that any person who violates the provisions of the ordinance shall be guilty of a Class 3 misdemeanor.

(2010, c. 512.)

VIRGINIA ADMINISTRATIVE CODE

4VAC15-20-10. Definitions; generally.

Words and phrases used in any regulations made by the board shall have the same meaning, unless the context clearly indicates otherwise, as is given for such words and phrases in the Virginia Game and Inland Fisheries laws contained in Title 29.1 of the Code of Virginia.

Statutory Authority

§§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Historical Notes

Derived from VR325-01-1 § 1, eff. July 1, 1991; amended, Virginia Register Volume 11, Issue 5, eff. January 1, 1995.

VIRGINIA ADMINISTRATIVE CODE

4VAC15-270-90. Model ordinances related to hunting with firearms for counties and cities.

Per the provisions of § 29.1-528 A of the Code of Virginia, the following model ordinances related to hunting with firearms may be adopted by counties and cities. In accordance with § 29.1-528 B of the Code of Virginia, no such ordinance shall be enforceable unless the governing body of the locality notifies the director by registered mail prior to May 1 of the year in which the ordinance is to take effect.

Model Ordinance 1:

It shall be unlawful to hunt with a rifle larger than .22 caliber rim fire.

Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 2:

It shall be unlawful to hunt with a rifle larger than .22 caliber rim fire, except rifles of a larger caliber may be used for hunting groundhogs between March 1 - August 31. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 3:

It shall be unlawful to hunt with a rifle larger than .22 caliber rim fire, except rifles of a larger caliber may be used to hunt from a stand elevated at least 10 feet from the ground. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 4:

Muzzleloading rifles may only be used to hunt from a stand elevated at least 10 feet from the ground. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 5:

Muzzleloading rifles firing a single projectile may not be used to hunt between April 1 - May 31. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 6:

It shall be unlawful to hunt with shotguns loaded with slugs. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 7:

It shall be unlawful to engage in hunting with a firearm within the right-of-way of any primary or secondary highway. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 8:

It shall be unlawful to engage in hunting with a firearm within 100 yards of any primary or secondary highway. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Statutory Authority

§§ 29.1-103, 29.1-501, 29.1-502, and 29.1-528 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008.

CODE OF VIRGINIA

TITLE 1 – GENERAL PROVISIONS

Chapter 2.1 - Common Law and Rules of Construction

§ 1-248. Supremacy of federal and state law.

The Constitution and laws of the United States and of the Commonwealth shall be supreme. Any ordinance, resolution, bylaw, rule, regulation, or order of any governing body or any corporation, board, or number of persons shall not be inconsistent with the Constitution and laws of the United States or of the Commonwealth.

(Code 1919, § 5; Code 1950, § 1-13; 1950, p. 22, § 1-13.17; 2005, c. [839](#).)

CONSTITUTION OF VIRGINIA

ARTICLE XI – Conservation

Section 4. Right of the people to hunt, fish, and harvest game.

The people have a right to hunt, fish, and harvest game, subject to such regulations and restrictions as the General Assembly may prescribe by general law.

The amendment ratified November 7, 2000 and effective January 1, 2001—Added a new section (4).

VIRGINIA ADMINISTRATIVE CODE

4VAC15-270-20. Rifles prohibited in hunting bear and deer in certain counties and cities.

Except as otherwise provided in 4VAC15-270-30 of this chapter or by local ordinance, it shall be unlawful to use a rifle of any caliber for the hunting of bear and deer in the counties of Chesterfield, Isle of Wight, New Kent, Southampton and Sussex and in the City of Chesapeake ; however, nothing in this section shall prohibit the use of muzzleloading guns, as described in 4VAC15-90-80 F, for hunting deer during the late special muzzleloading deer season in the City of Chesapeake.

Statutory Authority

§§ 29.1-501 and 29.1-502 of the Code of Virginia.

Historical Notes

Derived from VR325-02-25 § 2, eff. October 1, 1987; amended, Virginia Register Volume 9, Issue 22, eff. August 26, 1993; Volume 17, Issue 19, eff. July 4, 2001; Volume 25, Issue 25, eff. August 1, 2009.

VIRGINIA ADMINISTRATIVE CODE

4VAC15-90-80. Muzzleloading gun hunting.

A. It shall be lawful to hunt deer during the early special muzzleloading season with muzzleloading guns from the Saturday prior to the first Monday in November through the Friday prior to the third Monday in November, both dates inclusive, in all cities, towns, and counties where deer hunting with a rifle or muzzleloading gun is permitted, except in the cities of Chesapeake, Suffolk (east of the Dismal Swamp Line) and Virginia Beach.

B. It shall be lawful to hunt deer during the late special muzzleloading season with muzzleloading guns starting 18 consecutive hunting days immediately prior to and inclusive of the first Saturday in January, in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County), and east of the Blue Ridge Mountains in the counties (including the cities and towns within) of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and on national forest lands in Frederick County and in the cities of Chesapeake, Suffolk (east of the Dismal Swamp line), and Virginia Beach.

C. Deer of either sex may be taken during the entire early special muzzleloading season east of the Blue Ridge Mountains unless otherwise noted below:

- Deer of either sex may be taken on the second Saturday only of the early special muzzleloading season on state forest lands, state park lands (except Occoneechee State Park), department-owned lands and Philpott Reservoir.

- Antlered bucks only—no either sex deer hunting days during the early special muzzleloading season on national forest lands in Amherst, Bedford, and Nelson counties.

D. Deer of either sex may be taken on the second Saturday only during the early special muzzleloading season west of the Blue Ridge Mountains unless otherwise noted below:

- Deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd counties and on private lands in Carroll, Frederick, Grayson, Montgomery, Roanoke, and Warren counties.

- Antlered bucks only—no either sex deer hunting days during the early special muzzleloading season in Buchanan, Dickenson, Lee, Russell, Smyth, Tazewell, Washington, and Wise counties and on national forest lands in Alleghany, Botetourt, Frederick, Grayson, Page, Rockingham, Scott, Shenandoah, Warren, and on national forest and department-owned lands in Augusta, Bath, Highland, and Rockbridge counties and on Grayson Highlands State Park and on private lands west of Routes 613 and 731 in Rockingham County.

E. Deer of either sex may be taken during the last six days of the late special muzzleloading season unless otherwise listed below:

- Deer of either sex may be taken full season during the entire late special muzzleloading season in the counties (including the cities and towns within) of Amherst (west of U.S. Route 29 except on national forest lands), Bedford (except on national forest lands), Campbell (west of Norfolk Southern Railroad), Floyd, Franklin, Henry, Nelson (west of Route 151, except on national forest lands), and Patrick and on private lands in Carroll, Grayson, Montgomery, Roanoke and Warren counties and in the cities of Chesapeake, Suffolk (east of the Dismal Swamp line), and Virginia Beach.

- Deer of either sex may be taken the last day only during the late special muzzleloading season in Dickenson (north of Route 83), Lee, Russell, Scott, Smyth, Tazewell, Washington, and Wise counties and on national forest lands in Alleghany, Amherst, Bedford, Botetourt, Frederick, Grayson, Nelson, Page, Rockingham, Shenandoah, and Warren counties, and on national forest and department-owned lands in Augusta, Bath, Highland, and Rockbridge counties and on private lands west of Routes 613 and 731 in Rockingham County and Grayson Highlands State Park.

- Antlered bucks only—no either-sex deer hunting days during the late special muzzleloading season in Buchanan and Dickenson (south of Route 83).

F. Deer of either sex may be taken full season during the special muzzleloading seasons within the incorporated limits of any city or town in the Commonwealth that allows deer hunting except in the counties of Buchanan, Dickenson, and Wise.

G. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns, except that tracking dogs as defined in § 29.1-516.1 of the Code of Virginia may be used.

H. A muzzleloading gun, for the purpose of this section, means a single shot weapon, excluding muzzleloading pistols, .45 caliber or larger, firing a single projectile or sabot (with a .38 caliber or larger projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent or smokeless powder).

I. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

Statutory Authority

§§ 29.1-501, 29.1-502, and 29.1-516.1 of the Code of Virginia.

Historical Notes

Derived from VR325-02-6 § 5, eff. July 1, 1991; amended, Virginia Register Volume 9, Issue 22, eff. August 26, 1993; Volume 10, Issue 23, eff. September 8, 1994; Volume 11, Issue 18, eff. July 1, 1995; Volume 13, Issue 18, eff. July 1, 1997; Volume 15, Issue 20, eff. July 7, 1999; Volume 17, Issue 19, eff. July 4, 2001; Volume 19, Issue 19, eff. July 1, 2003; Volume 22, Issue 19, eff. July 1, 2006; Volume 22, Issue 22, eff. July 1, 2006; Volume 24, Issue 23, eff. July 1, 2008; Volume 24, Issue 24, eff. July 8, 2008; Volume 25, Issue 25, eff. August 1, 2009; Volume 27, Issue 23, eff. July 1, 2011; Volume 27, Issue 25, eff. August 1, 2011.

Chapter 9 - General Powers of Local Governments

§ 15.2-915.2. Regulation of transportation of a loaded rifle or shotgun.

The governing body of any county or city may by ordinance make it unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within such locality. Any violation of such ordinance shall be punishable by a fine of not more than \$100. Conservation police officers, sheriffs and all other law-enforcement officers shall enforce the provisions of this section. No ordinance adopted pursuant to this section shall be enforceable unless the governing body adopting such ordinance so notifies the Director of the Department of Game and Inland Fisheries by registered mail prior to May 1 of the year in which such ordinance is to take effect.

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

(1976, c. 506, § 18.2-287.1; 1977, c. 377; 1989, c. 50; 2004, c. 462.)

§ 15.2-915.4. Counties, cities and towns authorized to regulate use of pneumatic guns.

A. A locality may prohibit, by ordinance, the shooting of pneumatic guns in any areas of the locality that are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof, and may require supervision by a parent, guardian, or other adult supervisor approved by a parent or guardian of any minor below the age of 16 in all uses of pneumatic guns on private or public property. The ordinance may specify that minors above the age of 16 may, with the written consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor, whether permitted by a parent or guardian to use a pneumatic gun or not, shall be responsible for obeying all laws, regulations and restrictions governing such use. Any penalty for a pneumatic gun offense set forth in such an ordinance shall not exceed a Class 3 misdemeanor.

B. No such ordinance authorized by subsection A shall prohibit the use of pneumatic guns at facilities approved for shooting ranges, on other property where firearms may be discharged, or on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

C. Training of minors in the use of pneumatic guns shall be done only under direct supervision of a parent, guardian, Junior Reserve Officers Training Corps instructor, or a certified instructor. Training of minors above the age of 16 may also be done without direct supervision if approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Ranges and instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, any service of the Department of Defense, or any person authorized by these authorities to certify ranges and instructors.

D. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

E. As used in this section, "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

(2004, c. 930; 2011, c. 832.)

§ 15.2-916. Prohibiting shooting of compound bows, crossbows, longbows and recurve bows.

Any locality may prohibit the shooting of an arrow from a bow in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. For the purposes of this section, "bow" includes all compound bows, crossbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows which have a peak draw of less than ten pounds or which are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

(1995, c. [284](#), § 15.1-518.2; 1997, c. [587](#).)

Chapter 12 - General Powers and Procedures of Counties

§ 15.2-1209. Prohibiting outdoor shooting of firearms or arrows from bows in certain areas.

Any county may prohibit the outdoor shooting of firearms or arrows from bows in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

For purposes of this section, "bow" includes all compound bows, crossbows, longbows and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

Any county that prohibits the outdoor shooting of firearms or arrows from bows shall provide an exemption for the killing of deer pursuant to § 20.1-529. Such exemption for the shooting of firearms shall apply on land of at least five acres that is zoned for agricultural use. Such exemption for the shooting of arrows from bows shall apply on land of at least two acres that is zoned for agricultural use.

(Code 1950, § 15-20.3; 1954, c. 223; 1962, c. 623, § 15.1-518; 1968, c. 294; 1992, c. 600; 1993, c. 367; 1995, c. 284; 1997, c. 587; 2000, c. 229; 2004, c. 930; 2005, c. 564.)

§ 15.2-1210. Prohibiting hunting in certain areas.

Any county may by ordinance prohibit all hunting with firearms or other weapons in, or within one-half mile of, any subdivision or other area of such county which, in the opinion of the governing body, is so heavily populated as to make such hunting dangerous to the inhabitants thereof. Any such ordinance shall clearly describe each area in which hunting is prohibited, and shall further provide that appropriate signs shall be erected designating the boundaries of such area.

(Code 1950, § 15-20.3:1; 1962, c. 163, § 15.1-518.1; 1997, c. 587.)

§ 15.2-1242. Minutes of meetings and proceedings.

The governing body of every county shall cause to be recorded, in well bound books or by a microphotographic process which complies with standards adopted pursuant to regulations issued under § 42.1-32 for microfilm, microfiche, or such other similar microphotographic process, complete minutes of all their respective meetings and proceedings. All bids submitted on any building, materials, supplies, work, or project to be let to contract by any governing body may be incorporated by reference in such minutes, and the record of such bids shall be retained in a separate file. Such minutes and records of bids shall be kept open to public inspection at all reasonable times for a period of three years after they have been recorded. The minutes of regularly occurring workshop meetings at which no official action is taken may be recorded by tape or sound recording, which shall be retained and available for public inspection in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and the Virginia Public Records Act (§ 42.1-76 et seq.).

(Code 1950, § 15-248; 1962, c. 623, § 15.1-543; 1979, c. 209; 1980, c. 220; 1997, c. 587; 1999, c. 126.)

Mr. Robert Rudzik asked the County Attorney, Richard Railey, to read from the Code of the County of Southampton, Virginia 1991, Chapter 10, Article 1, in general Section 10-26; and also include the state law of references at the bottom of the section verbatim.

Mr. Richard Railey said that is a little bit different from what we usually do; but Mr. Chairman if you want me to read it, I'll be happy to read it.

Chairman Jones asked Mr. Robert Rudzik why he would need to read it.

Mr. Robert Rudzik said because it is very important. Section 10-26 is hunting weapons restricted. Mr. Robert Rudzik read the section himself and continued his presentation. He followed by saying there were some other numbers at the bottom that he wasn't sure what they were.

County Attorney, Richard Railey said they were prior Southampton County Ordinances.

Mr. Robert Rudzik asked if that was when it was approved.

County Attorney, Richard Railey said no. This ordinance was approved in March 24, 2003. But this ordinance in one form or another has been in effect for over forty years.

Mr. Robert Rudzik asked County Attorney, Richard Railey, if he found any errors in what he has found in laws, statutes, codes or references that he brought forward tonight.

County Attorney, Richard Railey said Mr. Robert Rudzik apparently didn't understand what "may" means. It says the Department of Game and Inland Fisheries.

Mr. Robert Rudzik said pardon me.

County Attorney stated again that Mr. Robert Rudzik has a problem understanding what the word "may" means.

Supervisor Edwards stated "m a y".

Mr. Robert Rudzik said maybe.

County Attorney, Richard Railey said if you read 29. 1.528 which he calls legislation it says the Board and that is the DGI Board can propagate minor ordinances. There is no question about that. It tells you what they can aggress. Then it says that the governing body of any county or city may by ordinance adopt these, but you don't have to.

Mr. Robert Rudzik said that is correct.

Mr. Richard Railey said if you read the game book in the Commonwealth there are 79 different approaches to weapons. He said he thinks there are seven or eight minor ordinances and he knows all about the ordinances because he was on the DGIF Board when those ordinances were passed and he helped draft them. They were drafted not as and in all that you had to have one or the other. They were just an example to help bring some uniformity to the Commonwealth. If you read on in the enabling legislation it says the governing body and that certainly refers to the Board of Supervisors of any county or city may by ordinance prohibit hunting in each such county or city with a shotgun, or with a slug, or a rifle or a caliber larger than .22. However, such ordinance may permit the hunting of groundhogs with a rifle caliber larger and such ordinance may also permit the use of muzzle loading which clearly imply that we have the authority to prohibit. That is the express words of the statute. He said let me give you a little bit more of the history. The same argument that you make has been made in this room over the last twenty years several times and been rejected. It has been made to courts in the commonwealth and been rejected. It has been made in front of the DGIF Board and was rejected by the Attorney General who represented them at that time. And more importantly perhaps from a practical viewpoint, and he believes that at the 2009 General Assembly, Senator Quayle who represented us at that time was asked to be a patron on a bill to take away this discretion from localities and make it mandatory across the Commonwealth. You know what happened to that bill – it died in committee. In other words it didn't die; he withdrew it because he became convinced that in Virginia for better or worse and he's not talking about the merits one way or the other, that is something this Board can decide. He

said he is convinced that they do have the authority and he thinks they have a perfectly legal ordinance. With all due respect he does appreciate Mr. Robert Rudzik's research.

Mr. Robert Rudzik said no problem. He said it took him a while to figure this out for himself too, but he has a different opinion. Reading the entire paragraph, the Boards don't propagate regulations establishing model ordinances for hunting with firearms that may be adopted by counties or cities – meaning you don't have to adopt them. He continued to read and elaborate on this issue. He asked Mr. Richard Railey other than that were there any other errors.

Mr. Richard Railey said he thinks when you go into the rigs he thinks Mr. Robert Rudzik has a problem with the word may. If you look at 4BAC15980A Muzzle loading Gun Hunting it says where deer hunting with a rifle or muzzle loading gun is permitted so that would certainly imply as he reads the English language that if it is not permitted – it is not permitted.

Mr. Robert Rudzik asked Mr. Richard Railey if he could read that again. He asked Mr. Richard Railey to give him a chance to find it.

Mr. Richard Railey stated again where he was reading from and read it again. He stated it had to be permitted by the locality. The authority is given by the General Assembly to the locality under 29.1.528 it goes to the Board of Supervisors of the County.

Mr. Robert Rudzik said he thought that clearly says you can adopt these ordinances or you can choose none of them and comply with the laws of the state of Virginia. If you adopt them, then we can incorporate them into the regulations.

Mr. Richard Railey said those regulations are adopted by the DGIF Board pursuant to our rule making authority. The Code is adopted by the General Assembly.

Mr. Robert Rudzik said he wasn't sure he understood all that. He said he understood the laws come first establishing guidelines to be followed and regulations come as a result of the decisions made.

Mr. Richard Railey said no the regulations come as a result of the authority given to the DGIF Board by the General Assembly.

Mr. Robert Rudzik said they have got to pass something saying this is the regulation that we want.

Mr. Richard Railey said no. The General Assembly gives the DGIF Board a certain amount of latitude. Obviously it is not totally consistent in Virginia because some things are set by the General Assembly then sometimes the General Assembly does not like what the DGIF Board does and they can pick it up and throw a trunk card on it. Basically the DGIF Board has the authority to propagate regulations.

Mr. Robert Rudzik said that is why they say it takes a lawyer to hunt deer in Virginia. He said he had a copy of all the local firearm ordinances. There are 79 of them. He believes that state came up with 528 in 2003 because the list kept growing. Localities and counties kept developing their own regulations. Then they said wow, wow, we have got to get this under control.

Mr. Richard Railey said you are exactly right as far as the argument goes. He stated there was a problem with a game conservation officer being transferred across the state and having difference ordinances in every locality and there was a push to say we are going to pass two model ordinances and you pick up one or the other. That was overwhelmingly opposed and that was the genesis of a model and suggested ordinance which you could adopt or not.

Mr. Robert Rudzik said that was what was made into the state laws. It might have been opposed, but it was made into the state laws.

Mr. Richard Railey said the key word is “may” not “shall”. There is a big difference between “may” and “shall”.

Supervisor Edwards said that means yes or no. We can do it or we don’t have to do it.

Mr. Robert Rudzik said adopt the model ordinance.

Supervisor Edwards said you don’t understand. We may adopt it if we want to. If we don’t want to we don’t adopt it.

Mr. Robert Rudzik said that is right. You can choose to adopt one. You can choose to adopt eight. You can choose to adopt none, but these are what you have to work with.

Supervisor Edwards stated they had chosen not to adopt it for the last twenty years.

Chairman Jones told Mr. Robert Rudzik that we have to work with our lawyer. We are paying him. You need to get with him and convince him that he is wrong. Then let him come back and tell us. Chairman Jones said he didn’t think he was going to convince him tonight.

Supervisor Edwards said this Board does not have the authority to say it is right or wrong. He stated the law is the law. They can’t interpret the law; Mr. Richard Railey interprets the law.

Mr. Robert Rudzik said the Board of Southampton County established that law.

Chairman Jones stated that they seeked direction when they established that law.

Mr. Robert Rudzik said so you do have the authority.

Chairman Jones stated that they had already established the fact that they didn’t want black powder in the county so if you have anything else we will hear that, if not they were going to move on.

Mr. Robert Rudzik said he had provided all the information he could find on this. He stated that it is Mr. Richard Railey’s function is to advise you.

Chairman Jones stated that Mr. Richard Railey had done that.

Mr. Robert Rudzik said it is your decision.

Chairman Jones said they made that decision a long time ago.

Supervisor Porter said this is not an issue as whether we need to have black powder or not. This is a legal issue as to whether or not we have a legal statute. Our legal advisor tells us that it is legal so we believe it is legal. Somehow you would have to go through the legal process or convince our legal advisor that it is not legal. If you want the law changed, you have to take a different path because they are not going to avoid the law unless we get legal advice that we have an un-enforceable statute. We can talk all night but that is the way it is, but if you want to continue this approach you need to probably engage legal counsel to follow through that effectively. If you want to take a different perspective, you have several other options to try to get your end result. Your end result is you want black powder hunting.

Mr. Robert Rudzik said what he wants and what he thinks every land owner and gun owner wants in Southampton County is the ability to choose.

Supervisor Porter said every land owner he talked to does not necessarily share your view. In fact he has not had one land owner in his district to tell him that they feel this statute is an unjust restriction on their rights as a property.

Mr. Robert Rudzik asked if anyone in the room felt that way.

At this point several people started talking.

Chairman Jones stated that this is not a public hearing. He moved on to the next item being item number eight – All Hazards Mitigation Plan.

Mr. Michael Johnson stated that under separate cover with this agenda, please find the final draft of the Southampton County All Hazards-Mitigation Plan. Development of this document was facilitated by the Hampton Roads Planning District Commission and Sales Creek Consulting, a Hampton-based consultant. Its purpose is to address all natural and manmade hazards that could potentially affect the County and any of its incorporated towns. The goal of the plan is to minimize or eliminate the long-term risk to life and property from known hazards by identifying and implementing effective mitigation strategies and actions.

Ms. Leigh Morgan with Salters Creek Consulting, the plan author, will be at your meeting to provide an overview and answer any questions that you may have. The plan was approved by the Planning Commission last July.

The All-Hazards Mitigation Plan has been designed to meet all applicable federal regulations per the Disaster Mitigation Act of 2000 and local planning requirements established by the Federal Emergency Management Agency (FEMA). Preparation of the plan was funded entirely with a grant from FEMA.

Its completion and adoption are prerequisites for any future grants through the Pre-Disaster Mitigation (PDM) program or Hazard Mitigation Grant Program (HMGP). An approved plan is also required for eligibility to receive direct public assistance during federally-declared emergencies and disasters (such as Hurricane Irene last August).

In accordance with Federal Planning requirements, the local governing bodies of the County and each participating town must review and approve that portion of the overall plan that affects their respective jurisdiction. The final versions of the plan have been forwarded to each of the incorporated towns for adoption by their respective town councils. Following the plan adoption process, Southampton County will submit the completed All-Hazards Mitigation Plan for final approval by FEMA and the Virginia Department of Emergency Management.

Attached for your consideration on pages 8-3 and 8-4, please find a resolution adopting the 2011 All-Hazards Mitigation Plan.

A motion is required to adopt the attached resolution approving the 2011 All Hazards Mitigation Plan.

Ms. Leigh Morgan with Salters Creek Consulting gave the following presentation:



January 23, 2011

Leigh Chapman, Lead Mitigation Planner
Salter's Creek Consulting, Inc.



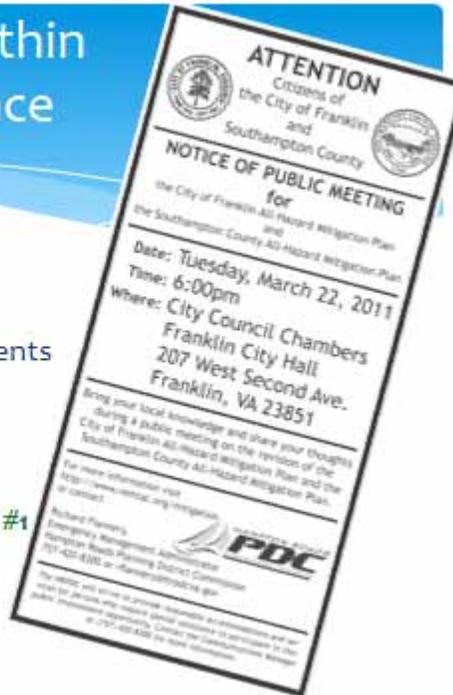
A 10-Step Process within the 4-Phase Guidance

Phase I: Organize Resources

- Get organized
- Plan for public involvement
- Coordinate with other departments

Phase II: Assess Risk

- Identify the hazards
- Assess the risks - **Committee Meeting #1** and **Public Meeting #1**



A 10-Step Process within the 4-Phase Guidance

Phase III: Develop Mitigation Plan

- Set planning goals - **Committee Meeting #2**
- Review mitigation alternatives – **Committee Meeting #3**
- Draft an action plan – **Public Meeting #2**

Phase IV: Adopt & Implement

- Adopt the plan
- Implement the plan



Natural Hazards Summary

Southampton County

Flood
Hurricane and Tropical Storm
Severe Thunderstorm
Tornado
Winter Storm
Wildfire
Drought
~~Erosion~~
Earthquake
Sinkhole
Extreme ~~Temperature~~ Heat
~~Mosquito Borne Disease~~

Southampton County

Hazardous Material Incident
~~Urban Fire~~
~~Terrorism~~
Biological Threat
Radiological Threat
Dam Failure



Revised Goals and Objectives

2006 GOALS	2011 GOALS AND OBJECTIVES
<p>Goal #1 Increase local capability to implement long-term mitigation measures that will protect lives and property from hazards.</p>	<p>Goal #1 Implement mitigation projects that protect lives and property from high risk hazards.</p> <p>Objective 1.1: Seek funding to support buyouts, elevations, acquisition projects, safe rooms and other mitigation projects.</p> <p>Objective 1.2: Target repetitively flooded structures for mitigation projects.</p>
<p>Goal #2 Enhance local emergency services to ensure Southampton County is fully prepared to respond to and mitigate against potential hazard events.</p>	<p>Goal #2 Promote coordination within and among emergency service providers.</p> <p>Objective 2.1: Update Emergency Operations Plan to increase cooperation between jurisdictions.</p> <p>Objective 2.2: Leverage state and federal funding for equipment and training.</p>

Revised Goals and Objectives

2006 GOALS	2011 GOALS AND OBJECTIVES
<p>Goal #3 Develop local plans and policy measures to reduce the effects of identified hazards.</p>	<p>Goal #3 Coordinate planning efforts to encourage development in areas not exposed to high risk hazards.</p>
<p>Goal #4 Design and build structural mitigation projects to reduce the effects of identified hazards.</p>	<p>Goal #4 Promote policies to protect public and private property from high risk hazards.</p> <p>Objective 4.1: Advertise mitigation accomplishments and successes to increase community desirability.</p> <p>Objective 4.2: Assess NFIP Higher Floodplain Management Standards for protection of property.</p>

Revised Goals and Objectives

2006 GOALS	2011 GOALS AND OBJECTIVES
<p>Goal #5 Upgrade and enhance local stormwater management efforts to reduce the potential for small and large-scale drainage problems, and maintain continued compliance with the NFIP.</p>	<p>Goal #5 Improve stormwater management capabilities.</p>
<p>Goal #6 Increase public education and awareness efforts to ensure the residents of Southampton County know how to best prepare for and mitigate against high risk hazards.</p>	<p>Goal #6 Increase public education and awareness of high risk hazards. Objective 6.1: Encourage residents to assume responsibility for protection. Objective 6.1: Promote flood insurance as a property protection measure. Objective 6.3: Improve staff training opportunities in emergency management and floodplain management.</p>

Mitigation Action Plan

Region or Countywide

1. Participate in Annual Hampton Roads Planning District Commission (HRPDC) Mitigation Funding Workshop.
2. Request HRPDC prepare an architectural site inventory overlaid on the floodplain data and wildfire data for the entire County.

Southampton County

1. Identify suitable sites for new County Emergency Operations Center outside of the floodplain, or retrofit existing EOC. Require new public safety buildings be located outside 500-year floodplain and that a detailed flood study be conducted to determine limits of the 100- and 500-year floodplains for proposed public safety building near approximate A Zone.
2. Solicit the Virginia Department of Forestry for wildfire mitigation comments on proposed major subdivisions in the County.

Mitigation Action Plan

Southampton County, cont.

3. Protect repetitively flooded structures, including the County courthouse, from flood damage. Modifications could include floodproofing retrofits, elevation of structure and/or critical components, or repurposing the structure. Action includes inquiries as to whether properties included on the NFIP repetitive loss list have been mitigated, and if so, what mitigation measures were used.
4. Complete six countywide drainage studies that prioritize drainage maintenance requirements and stormwater management projects to minimize flooding problems.
5. Implement necessary shelter retrofits and improvements to Southampton County High School.



Mitigation Action Plan

Southampton County, cont.

6. Institute annual direct mail educational program to provide multi-hazard structural protection techniques to property owners. Include information on responsible tree pruning.
7. Include a hazard element in the 2012 Comprehensive Plan update to reflect the findings and activities in this plan.
8. Provide Certified Floodplain Manager (CFM) training for one staff member every two years.



Public Review & Comment Periods

Two Public Comment and Review Periods were provided immediately following public meetings in March and June:

- 1) At the beginning of the planning process, in April, to solicit data and information regarding the hazard and risk assessment
- 2) Toward the end of the process, in June, as we finalized the draft and solicited comments from the public



Adoption, Implementation & Maintenance

- Plan has been preliminarily approved by both the Virginia Department of Emergency Management and FEMA
- Plan mandates an annual review and progress report, as accomplished by Regional Mitigation Action #1
- Plan to be updated every 5 years or after a disaster declaration



Chairman Jones asked if anyone had any questions.

Mr. Michael Johnson stated that there is a resolution on pages 8-3 and 8-4 in your agenda packages which would actually adopt this 2011 All Hazards Mitigation Plan.

Chairman Jones said he needed a motion to adopt the resolution.

Mr. Michael Johnson said he would read it if Chairman Jones would like.

Chairman Jones said everyone had a copy. He didn't see any need to read it.

MEMORANDUM

TO: Michael Johnson, County Administrator
FROM: Beth Lewis, AICP, Community Development Director
DATE: January 4, 2012
RE: All Hazard Mitigation Plan

We have received the final, FEMA-accepted, All Hazard Mitigation Plan for approval by the Board of Supervisors. The previous All Hazard Mitigation Plan was adopted in 2006 and review is required each five years. The towns are in the process of reviewing and adopting the plans as well.

The major changes since the 2006 plan include:

Deletions

- Erosion – relatively flat elevation makes severe erosion unlikely. Most erosion would be in conjunction with a flood.
- Landslide – relatively flat elevation makes landslide unlikely.
- Urban fire – no areas in County seen as "urban" or densely populated enough to consider urban fire a possibility.
- Terrorism – Homeland Security plans address terrorism. This plan is for issues not covered anywhere else.

Changes

- Extreme temperature to Extreme heat - the Winter Storm hazard already covered extreme cold.

Added

- Mosquito Borne Disease-spread as a by-product of standing water, an issue after storms and flooding.

Table 8-4 (page 8:4) of the Plan summarizes Southampton County's 2006 Plan Mitigation Actions, what the progress was on achieving those actions since 2006, and the status of those actions in the 2011 Plan. Southampton County's Mitigation Actions going forward with the current plan begin on page 8:8. Several of the action items cost little to no money, such as coordinating with the Division of Forestry for subdivision review with regard to wildfires and asking HRPDC to integrate the archeological site layer with the floodplain layer for our use, and will be done quickly. Some of the action items, such as locating an Emergency Operations Center out of the floodplain and retrofitting the skylight at the high school, involve costs to some extent and will require review at the Capital Improvement Plan discussion stage.

Adoption of the plan is necessary for several reasons. Adoption makes the County and towns eligible for Federal funds in the event of a disaster. Adoption also makes the County and towns eligible for any other types of Federal funding to use for mitigation efforts as well. The Planning Commission recommended approval of the plan at their July 14, 2011 meeting.

This plan has been reviewed and accepted by FEMA and will receive final FEMA approval upon adoption by the Board of Supervisors. A representative from the consulting firm will attend the January Board meeting to provide an overview and highlights of the plan, and to answer any questions.



**BOARD OF SUPERVISORS
SOUTHAMPTON COUNTY, VIRGINIA**

RESOLUTION 0112-08

At a meeting of the Board of Supervisors of Southampton County, Virginia, held in the Southampton County Office Center, Board of Supervisors' Meeting Room, 26022 Administration Center Drive, Courtland, Virginia on Monday, January 23, 2012 at 7:00 p.m.

PRESENT

The Honorable Dallas O. Jones, Chairman
The Honorable Alan W. Edwards, Vice Chairman
The Honorable Carl J. Faison
The Honorable S. Bruce Phillips
The Honorable Barry T. Porter
The Honorable Glenn H. Updike
The Honorable Ronald M. West

IN RE: ALL HAZARDS MITIGATION PLAN

Motion by Supervisor _____:

WHEREAS, Southampton County, Virginia is vulnerable to an array of natural and manmade hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the County desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of an all-hazards mitigation plan can result in actions that reduce the long-term risk to life and property from natural and manmade hazards; and

WHEREAS, it is the intent of the Board of Supervisors to protect its citizens and property from the effects of natural and manmade hazards by preparing and maintaining a local all-hazards mitigation plan; and

WHEREAS, it is also the intent of the Board of Supervisors to fulfill its obligation under Section 322, Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as enacted by Section 104 of the Disaster Mitigation Act of 2000 (P.L. 106-390) to

Chairman Jones called for item number nine – reimbursement resolution Boykins wastewater treatment plant upgrades.

Mr. Michael Johnson stated as discussed last month, we entered into a voluntary consent order with the State Water Control Board in September 2011 legally obligating us to bring the Boykins wastewater treatment plant into full compliance by January 1, 2013. Based upon an accumulation of degraded sludge in the bottom of the aeration and digester basins, and certain equipment nearing the end of its useful life (aerators, mixers, clarifier curtain wall and scum sweeper), we encountered chronic difficulty meeting our copper and ammonia limits beginning in December 2009.

On September 30, we received 5 sealed bids for the sludge removal and new equipment with a low bid of \$631,012 submitted by Patterson Construction. Based on Board action last month, I notified Patterson Construction within the required 90-day period that their bid had been accepted and we're awaiting submittal of bonding and insurance information prior to issuing the Notice to Proceed.

Funding for the project will come from the Virginia Clean Water Revolving Loan Fund (VCWRLF), which provides low-interest loans to Virginia local governments to assist with wastewater treatment plant improvements. The terms of our loan are 20 years at 0% interest.

Please find a copy of our Corrective Action Plan attached which was filed with DEQ prior to January 2 in accordance with the terms of the Consent Order. Because work will likely commence prior to our closing on the loan, it is necessary for the Board to adopt the attached reimbursement resolution. This will allow us to proceed with the work (in order to meet DEQ deadlines) and subsequently reimburse ourselves for eligible expenses once the loan proceeds become available.

For your reference, I will also be scheduling a public hearing next month regarding the borrowing itself, as required by 15.2-2606, Code of Virginia.

A motion is required to adopt the attached reimbursement resolution.

RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SOUTHAMPTON, VIRGINIA DECLARING ITS INTENTION
TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE
FINANCINGS FOR CAPITAL PROJECTS FOR WASTEWATER IMPROVEMENTS

The Board of Supervisors of the County of Southampton, Virginia (the "County") has determined that it may be necessary or desirable to advance money to pay the costs of certain capital projects for upgrades to the Boykins Wastewater Treatment Plant (the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SOUTHAMPTON, VIRGINIA:

1. The Board of Supervisors adopts this declaration of official intent under Treasury Regulations Section 1.150-2.
2. The Board of Supervisors reasonably expects to reimburse advances made or to be made by the County to pay the costs of the Project from the proceeds of its debt or other financing. The maximum amount of debt or other financing expected to be issued in one or more series for the Project is \$926,436.
3. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was adopted by the Board of Supervisors at its meeting on January 23, 2012 by the following recorded vote:

Member	Y/N
--------	-----

Absent

Clerk, Board of Supervisors,
County of Southampton, Virginia

0406791

9-3



Daphne L. Hunter
Executive Director

December 16, 2011

RECEIVED DEC 20 2011

Mr. Michael W. Johnson
County Administrator
Southampton County
P.O. Box 400
Courtland, VA 23837

Re: Virginia Water Facilities Revolving Fund
Southampton County, Virginia
C-615498 (FY2012 Funding Cycle)

Dear Mr. Johnson:

Virginia Resources Authority (the "Authority") is pleased to advise you that the State Water Control Board (the "Board") has authorized a loan in an amount up to \$106,450 (the "Loan") from the Virginia Water Facilities Revolving Fund (the "Fund") to Southampton County (the "County"). The funding consists of an interest-free loan with semi-annual payments beginning approximately six months after Project completion for a term of twenty years.

The Loan will be used to finance replacement equipment and maintenance at the Boykins Wastewater Treatment Plant, together with related expenses (the "Project"). The Authority hereby offers to extend to the County the Loan as stated, subject, however, to the satisfaction of the conditions to purchase the County's Local Bond set forth in the enclosed form of Financing Agreement (Sections 2.1, 3.1, and 3.2).

It is understood the Loan will be secured by a pledge of revenues from the County's water and wastewater system, supplemented by the moral obligation of the County. Unless otherwise agreed by the Authority, the County's Local Bond evidencing the Loan shall be issued on a parity basis with all outstanding bonds secured by the County's water and wastewater system revenues.

Loan closing and the disbursement of funds thereunder shall be subject to the availability of funds from the (a) United States Environmental Protection Agency Capitalization Grant under the Water Quality Act of 1987 and (b) Commonwealth of Virginia match grant.

Loan closing and the disbursement of funds in connection therewith shall remain subject to satisfaction of any condition precedent thereto established by the Board. The County shall comply in all respects with all applicable federal, state, and local laws, regulations and other requirements relating to or arising out of or in connection with the Project and the funding thereof by the Authority.

Mr. Michael W. Johnson
December 16, 2011
Page 2

The Authority reserves the right to withdraw or alter the terms of this commitment if, between the date of the County's loan application and the date of closing, the County incurs any debt or its financial condition changes in any way deemed material by the Authority in its sole discretion.

If you have any questions concerning the foregoing, please call Thomas H. Crumlish at 800-660-3300. If you concur with the terms and conditions herein stated, please acknowledge your acceptance thereof by signing below and returning to me. Retain a copy for your records.

If Loan closing still has not occurred by June 30, 2012, it is understood that the Authority reserves the right to modify any of the conditions of this commitment or to withdraw the loan offer.

Very truly yours,


Stephen L. Hamblin

The foregoing terms and conditions are hereby acknowledged and accepted the 17th
day of January, 2012.

By: 
County Administrator

Enclosure

cc: Tim E. Balfin, Esq.
Miguel M. Gilliland, Esq.
Walker A. Giza, PE, Virginia Department of Environmental Quality
Jon M. Meridional, Assistant County Administrator
Lynette C. Lowe, Finance Director
Arthur E. Anderson II, Esq.

9-6

Chairman Jones asked if anyone had any questions.

Supervisor West stated that paragraph two says that \$631,012 and then item number 2 of the resolution says \$926,450.00. He asked Mr. Michael Johnson to help him understand why there was a difference.

Mr. Michael Johnson stated that the \$926,450.00 was an up to number. That was the number that was submitted in the original application many months ago before the some of the final costs were known.

Supervisor West said that is fifty percent.

The \$631,012 is the actually the construction cost. You can also be reimbursed for your engineering costs, your construction administration cost, and those type things. The total project as presented to you last month is actually \$850,000.00. That is the actual amount.

Supervisor West stated he remembered that.

Chairman Jones asked if anyone else had any questions. There being none, he asked further for a motion to adopt the resolution.

Supervisor Faison made a motion to adopt

Supervisor Porter seconded the motion with it being carried unanimously.

Chairman Jones removed to the next item number ten being demolition of Ivor Elementary School.

Mr. Michael Johnson stated last month, the Board authorized us to proceed with demolition of the Ivor Elementary School by accepting the low bid of \$24,750 submitted by Gray & Sons Construction. We advised you that their bid did not include removal of the underground storage tanks or any asbestos containing materials, if encountered.

On January 3, in accordance with the terms of our contract, Gray & Sons notified us of two areas that harbored potential asbestos-containing materials. Mr. Mendenhall responded by contacting three asbestos abatement contractors who met him on site and provided quotations for removal of the suspect materials (pipe insulation and floor tile and adhesive).

The low bid of \$28,700 was submitted by WACO, Inc. While we don't anticipate it, please note that there may be additional charges if more asbestos-containing materials are later found (pipe chases, roof, etc.). Adding their bid to Gray & Sons', should you decide to proceed, you'll have \$53,450 invested in the demolition. The estimated cost to remove the underground storage tanks is expected to be less than \$10,000.

As we shared last month, the building sits on 8.02 acres and the land is assessed at \$64,200. The Town of Ivor has public water nearby and our Comprehensive Plan designates it as single family residential. It is currently zoned Residential R-1.

If the Board is so inclined, a motion is required to accept WACO, Inc.'s bid of \$28,700. Otherwise, a motion will be required to terminate the contract with Gray & Sons for convenience and allow the derelict structure to continue to deteriorate.

Chairman Jones said you have heard Mr. Michael Johnson. He asked what the Board wanted to do on this.

SOUTHAMPTON COUNTY
VIRGINIA

Southampton County
25022 Administration Center Drive
PO Box 400, Courtland, VA 23837



Phone (757) 653-3015
Fax (757) 653-0227

MEMORANDUM

TO: Mr. Michael W. Johnson, County Administrator
FROM:  Jon M. Mendenhall, Assistant County Administrator
SUBJECT: Former Ivor Elementary School Abatement
DATE: 1/17/12
ENCL: Received Bids (3), Sample Contract
CC: File

On 3 January 2012 Gray and Sons Construction notified me that while going through the former Ivor Elementary School over the holiday weekend prior to mobilizing for demolition that they discovered two areas of concern regarding possible asbestos, these areas were ceiling tile and pipe joints. This notification was found to comply with Special Provision # 2 of the contract. Southampton County responded to this notification by calling three asbestos abatement contractors for estimates to abate suspect asbestos as identified by the demolition contractor. Upon closer examination during the scoping of asbestos abatement work the ceiling tiles were deemed unlikely to contain asbestos material while the floor tile (9x9) was deemed likely to contain asbestos material. Based on these determinations all bidders were instructed to provide bids for the observable suspect asbestos that they, in their professional judgment, believed hazardous. A detailed evaluation conducted by a registered testing firm was not utilized, nor was a full survey conducted.

Bids were solicited informally pursuant to the Virginia Public Procurement Act, Section § 2.2-4303 of the Code of Virginia as amended. The bid results are as follows:

Bidder	Amount
Atlantic Environmental	\$46,670.00
East Coast Demolition	No bid
Waco	\$28,700.00

Based upon the bids received staff recommends selection of the lowest responsive bid of \$28,700.00 submitted by Waco. A copy of a sample contract has been included for informational purposes. It has been a pleasure working with the contractor community to provide these bids for review and I look forward to working at the direction of the Board of Supervisors to see this project to completion.

10-2



January 9, 2012

Southampton County
j.mendenhall@co.southampton.state.va.us

Re: Ivor Elementary School
Asbestos Abatement

Dear Mr. Mendenhall,

We would like to offer this proposal for the removal and disposal of asbestos containing materials as shown to us on January 5, 2012. The scope of work was determined by a visual inspection and is limited to the following locations, material types and approximate quantities:

Auditorium	\$ 3,000.00
125' Pipe Insulation	
25 Fittings	
2 Roof Drain Bowls	
2 AHU Expansion Joints	
Kitchen	\$ 3,000.00
210' Pipe Insulation	
8 Fittings	
Main Office	\$ 700.00
11 Fittings	
10 Classrooms	\$22,000.00
800 sf Floor Tile and Adhesive	
6 Fittings	
Total	\$28,700.00

All work practices will be in accordance with 29 CFR 1926.1101 Asbestos. We include providing electrical power and water, personal air monitoring, selective demolition of the kitchen ceiling in order to access piping, and the removal of carpeting in the classrooms. All debris in the work area is to be removed by others prior to the abatement effort. We do not include 3rd party inspection or monitoring. It is anticipated that the work can be substantially complete within 15 working days after the notification period.

Sandston, VA
(804) 222-8440

Newport News, VA
(757) 873-2205

Mt. Crawford, VA
(540) 434-7390

Mechanicville, MD
(301) 290-1333

Radford, VA
(540) 633-6311

Fredericksburg, VA
(540) 473-2891

Chesapeake, VA
(757) 558-3100

Biedenhorn, NC
(910) 648-5408

Covington, VA
(540) 962-5161

Mt. Storm, WV
(204) 258-5115

10-3

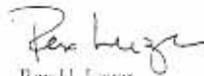
Southampton County
Page 2
January 9, 2012

We wish to bring to your attention that the scope of work defined above is our best effort to identify presumed asbestos containing materials. This is not a formal survey and we did not include sample analysis. It is possible that additional asbestos containing materials may be found. Examples may include roofing materials or piping concealed in chases. If additional materials are found we propose to negotiate a fixed price or work at your direction on a time and material basis.

We appreciate the opportunity to offer this proposal. If you have any questions or we can be of service please call.

Sincerely,

WACO, INC.



Rex H. Lazar
Vice President

10-4

Supervisor Edwards asked what was the worst case scenario on the price.

Supervisor Porter asked if this was going to be a money pit.

Mr. Michael Johnson said he didn't think so, but he couldn't guarantee you that. If you really wanted to do this by the book, what we would do would be hire a professional company to come in and access and evaluate the facility for asbestos, tests the materials that were deemed suspect, and then bid the abatement based on that report. That is the logical way to proceed. The truth of the matter is the cost of that study and testing would probably be \$30,000 or \$ 40,000 and you still would have to deal with the abatement. So what we are trying to do is save money by skipping that step. The abatement people are trained. They recognize when they see materials. They have had nothing tested; we are going solely on their visual. This appears to be asbestos containing tile. This appears to be asbestos pipe insulation. His idea is once we get it clean and get the all clear from them, Gray & Son goes in and demolishes the building and it is gone.