

CHAPTER 6

HEALTH AND SANITATION

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ARTICLE I. REMOVAL OF TRASH¹

Sec. 6-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abatement cost: The County's cost of labor, equipment and supplies for, or the contract price of, and any charges to, the county, with respect to the removal and disposal trash from a parcel.

Enforcement agent: The Zoning Administrator for the County of Bath.

Litter: All waste material and disposable packages or containers, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing. It includes, but is not limited to, the packages, wrappings and containers, cigarettes and tobacco products, bottles, glass or metal containers, plastic, and paper products.

Litter receptacle: A container with a capacity of not less than ten (10) gallons, constructed and placed for use as a depository for litter.

Owner: Any person shown by any public record to have an interest in real estate lying in the county upon which a public nuisance exists as of the date of the abatement of the public nuisance under this section. Owner shall also mean the occupant of any parcel of real estate, including but not limited to, any person in possession thereof having charge thereof as an executor, administrator, trustee, guardian or agent, and the beneficiary of any easement or right of use thereof.

Parcel: Any real estate or any interest therein, situate, lying and being in the county in any areas zoned for residential, business, commercial, or industrial uses or in any subdivision.

Public nuisance: Any act or activity the causing or maintaining of which is such an inconvenience or troublesome matter as to annoy, injure or damage the public at large or a substantial portion of the community or a considerable number of persons, and from which any resulting damage is not specifically apportionable to any one (1) member of the community.

Trash: Abandoned personal property, garbage, refuse, rubbish, litter or debris.

¹ **State law reference**-Authority of County to provide for removal of trash, Code of Virginia, § 15.1-11. **Contents of this Article are based upon the following County ordinance - Ord. of 3-14-72;** pertaining to the removal of trash.

Sec. 6-2 Penalty.

- (a) Any owner who violates any provision of this article shall be subject to a civil penalty not to exceed fifty dollars (\$50.00) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall not exceed two hundred dollars (\$200.00). Each calendar day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000.00) in a twelve-month period.
- (b) In lieu of imposition of a fine or civil penalty, the court may order the defendant to perform community service in litter abatement activities.
- (c) Classifying violations under this article as civil penalties shall preclude prosecution of violations as a misdemeanor.

Sec. 6-3. – Removal of trash required.

It shall be unlawful for the owner of any parcel or property to allow the accumulation of trash on any parcel or property. The owner of any parcel or property shall maintain all exterior property areas in a clean, safe condition free from the accumulation of trash. Failure to comply with this provision shall also constitute a public nuisance.

Sec. 6-4. - Report of violation.

Any person aggrieved by the accumulation of trash in violation of this Chapter may report such presence to the enforcement agent.

Sec. 6-5. – Inspection of site of violation: notice to remove trash.

Upon receipt of a report as referred to in section 6-4, the enforcement agent shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the enforcement agent has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner of the land or parcel upon which the violation exists to remove the accumulation of trash by the delivery, mailing or posting of the notice to have trash removed by a stated deadline following reasonable notice, which shall be no less than 10 days and no more 30 days. The enforcement agent, in his or her sole discretion, may extend the time period for compliance for good cause. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address and if the owner of the property cannot be found within the county after a reasonable search, notice shall be sent by certified mail, return receipt requested, to the last known address of the owner and a copy of the notice shall be posted on the property in a conspicuous place, and shall be complied with by such owner.

Sec. 6-6. - Performance of work by county; collection of costs.

If such accumulation of trash is not removed, within the required time as provided for in the notice, the enforcement agent shall cause such trash to be removed, and the abatement cost and expense thereof to be assessed against the owner of such property. The assessment shall be collected by the county as taxes and levies are collected. Every charge for removal of trash which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property on parity with liens for unpaid taxes.

Sec. 6-7. – Littering prohibited.

It shall be unlawful and a violation of this article for any person to drop, deposit, discard or otherwise dispose of trash or litter in or upon any public or private property within Bath County without the private property owner's consent, including but not limited to any street, sidewalk, park, vacant or occupied lot, except in public receptacles, or in authorized private receptacles provided for public use.

When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the street, highway, right-of-way or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage refuse, litter, or debris, provided that such presumption shall be rebuttable by competent evidence.

State law reference – Code of Virginia §§ 15.2-900, 15.2-901.

Bath County Board of Supervisors adopted with 4-0 vote on December 13, 2016

ARTICLE II. SEWERAGE SYSTEMS²

Sec. 6-3. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissioner shall mean the Commissioner of the Virginia Department of Health.

Health Department shall mean the Bath County Health Department.

² **State law references**-General authority of County relative to waterworks, sewers and sewage disposal facilities, Code of Virginia, § 15.1-292 et seq.; sewage disposal, §§ 32.1-163 through 32.1-166.

Owner shall mean the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

Properly installed, approved and standard as used in this Article shall be construed to mean in accordance with the specifications set forth in the current sewage disposal or pit privy bulletin of the State Health Department.

Review Board shall mean the State Sewage Handling and Disposal Appeals Review Board.

Sewage means water-carried and non-water-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes, separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

Sewerage system means pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

State Board shall mean the State Board of Health.

Treatment works means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

Cross reference-Definitions and rules of construction generally, § 1-2. **State law reference-**§ 32.1-163 of the Code of Virginia.

Sec. 6-4. Houses and buildings shall be equipped with approved methods of sewage disposal.

It shall be unlawful for the owner of any house used by a human habitation, any warehouse, any public building, or other place where human beings congregate or are employed in the County of Bath to use or occupy; to rent; or lease the same for use or occupancy by any person, firm, or corporation until the said house or building shall have been supplied or equipped with an approved method disposal of human excrement of such construction as will comply with the requirements hereinafter designed.

Sec. 6-5. Approved methods of sewage disposal.

(a) That for the purposes of this Article "An approved method of sewage disposal" shall be deemed to be one of the following:

(1) A properly installed flush toilet connected to an approved public or private sewer. If a public or private sewage system is available to the property owner, the owner will be required to connect to the public or private sewage system if the owner of the latter permits such connection; or

(2) A properly connected flush toilet connected to an approved, properly installed sewage disposal system.

(b) The following may also be deemed for purposes of this Article to be "An approved method of sewage disposal", but only upon a joint finding by the Bath County Building Code Official and the Health Officer of the Bath County Health Department that such method is necessary by reason of hardship or soil conditions, and that such method will not present an undue threat to the health of the applicant, other users and residents of the property, or members of the public:

(1) A composting or incinerator toilet; or

(2) A pit privy.

State law reference-General powers of Counties, Code of Virginia, § 15.1-510.

Sec. 6-6. Septic systems - construction or repair permit required.

(a) To obtain a construction or repair permit, the person, firm or corporation shall apply to the Health Department, and pay the required fee, if any, for such permit.

(b) It shall be unlawful for any person, firm or corporation to install or repair; have installed or repaired; or contract to install or repair a septic system for another person, firm or corporation before the owner of the property on which the septic system is to be installed or repaired, obtains a permit from the Health Officer of the Bath County Health Department, or his or her agent.

Sec. 6-7. Validity of certain septic system permits.

Any septic system permit issued shall be valid for a period of eighteen months from the date of issuance unless there has been a substantial, intervening change in the soil or site conditions where the septic system is to be located. However, if a building permit has been obtained or building construction has commenced, the permit may be extended for an additional eighteen months. Applicants shall be informed of the septic system permit validity period and advised to apply only when ready to begin construction.

State law reference-§ 32.1-164.1:1 of the Code of Virginia.

Sec. 6-8. Septic system must be inspected and approved by Health Officer.

No part of any septic system shall be covered or put into use until completed, inspected and approved by the Health Officer of the Bath County Health Department, or his or her authorized agent.

Sec. 6-9. Violation of Article and/or permit.

If upon any inspection, the Health Officer or his authorized agent shall find any violation of this Article and/or the provision of the permit issued under it, he shall direct the person, firm or corporation to whom the permit was issued, by written notice, to make the necessary corrections within such reasonable time as shall be specified therein.

Sec. 6-10. Appeals from denials of septic system permits.

(a) Whenever administrative action is taken to deny a septic system permit or to grant a septic system permit with conditions, the applicant shall be advised in writing of the administrative remedies that are available to obtain a reversal of the denial or a modification or elimination of the conditions, or, if no further administrative remedies are available, of the right of appeal provided for hereinafter. After exhausting his administrative remedies, as set forth in § 32.1-164.1:1 et seq. of the Code of Virginia, any person aggrieved by a case decision of the Review Board shall have the right to judicial review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

(b) The decision may be recorded in the land records of the Clerk of the Bath County Circuit Court so as to be binding notice to the public, including subsequent purchasers of the land in question.

(c) The holder of any permit for a septic system issued with conditions shall have the permit recorded in the land records of the Clerk of the Bath County Circuit Court. The holder of the permit and any subsequent holders of the permit through land purchase or transfer shall be bound by the conditions stated in the permit unless the holder or subsequent holder obtains an additional permit for modification or alteration of the septic system to meet any new use conditions.

Sec. 6-11. Furnishing plans and specifications required before starting any new subdivision or housing development.

It shall be unlawful for any person, firm or corporation to start any new subdivision or housing development before furnishing in triplicate plans and specifications of the sewage system or sewage disposal system to be used together with plans for the anticipated water system to be used in the structure or structures. These plans and specifications must be approved by the Commissioner of the Virginia Department of Health before construction is started.

Sec. 6-12. Prior approval required before issuance of building permit.

The County Building Official shall not issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon his finding that safe, adequate and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of said permit has been approved by the Review Board.

State law reference-§ 32.1-165 of the Code of Virginia.

Sec. 6-13. Disposal of sludge and material removed from any septic system.

Any person, firm or corporation that cleans any septic system shall dispose of the sludge and material removed from any septic tank by depositing such sludge and material into a sewage treatment plant or a sewage system that leads to same.

Sec. 6-14. Violation a Class 4 misdemeanor.

Any person, firm or corporation who shall neglect, fail or refuse to comply with the provisions of this Article shall be guilty of a Class 4 misdemeanor, and in addition, may be enjoined from further violation of this Article. Each day's continuance to so violate this Article or any of its provisions shall constitute a separate offense.

Cross reference-Penalty for a Class 4 misdemeanor, § 1-14.

Sec. 6-15. Article shall not apply to sewage systems now in existence.

This Article shall not apply to sewage systems now in existence except to see that they are kept in a sanitary condition unless and until such changes be approved by the Board of Supervisors after a public hearing has been held on such change.

ARTICLE III. BURIAL OR CREMATION OF ANIMALS OR FOWL³

Sec. 6-16. Burial or cremation of animals or fowl.

The owner of any animal or grown fowl, which has died, when he knows of such death, shall forthwith have its body cremated or buried.

Sec. 6-17. When owner fails to cremate or bury animal or grown fowl.

If the owner of any animal or grown fowl fails to have its body cremated or buried, any judge of the General District Court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by any officer or other person designated for the purpose, and the officer or other person shall be entitled to recover from the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

Sec. 6-18. Burial or cremation of animal or fowl to be used for food or in any commercial manner not required.

Nothing in this Article shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

³ **State law reference**-Similar provision, Code of Virginia, § 18.2-510. **Contents of this Article are based upon the following County ordinance - Ord. of - - ;** pertaining to the burial or cremation of animals or fowls.

Sec. 6-19. Violation of Article.

Any person violating the provisions of this Article shall be guilty of a Class 4 misdemeanor.

Cross reference-Penalty for a Class 4 misdemeanor, § 1-14.

ARTICLE IV. REGULATION OF NOISE

Sec. 6-20. Short title and application of article generally.

This Article shall be known and referred to as the “Noise Ordinance of Bath County, Virginia.” It shall be applicable to the control of noises originating within the jurisdictional limits of Bath County and from County-owned lands located outside the jurisdictional limits of the County.

Sec. 6-20-A. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of the County, and in the public interest, noise should be controlled. It is, therefore, the policy of the County to reduce noise in the County and to prohibit certain unnecessary, excessive, harmful, and annoying noises.

Sec. 6-20-B. Administration and enforcement.

This Article shall be enforced and administered by the Sheriff, with the assistance of other County departments as required.

Sec. 6-20-C. Definitions.

For purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

Agricultural operation: any operation devoted to the bona fide production of crops, animals, or fowl, including the production of fruits and vegetables of all kinds, meat, dairy, and poultry products, nuts, tobacco, nursery, and floral products and the production and harvest of products from silviculture activity. “Agricultural operation” also includes any operation devoted to the housing of livestock.

Audible and discernable: sound that can be heard by the human ear and is sufficiently distinct such that its source can be clearly identified.

Dwelling unit: one or more rooms arranged, designed, or intended to be occupied as separate living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Noise: any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Person: any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal successor, representative, agent or agency of the foregoing. This term shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

Sheriff: the Sheriff of Bath County, Virginia, or his or her duly appointed designees.

Sound: an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound amplifying equipment: any machine, device or equipment for the amplification of the human voice, music or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sec. 6-20-D. Loud noises prohibited.

It shall be unlawful for any person, on Monday through Sunday, between the hours of 10:00 p.m. and 6:00 a.m.:

- 1) To operate a device, musical instrument, or to otherwise create sound which exceeds 60 dBA when measured from the point of origin of the complaint on any other property affected by the sound.
- 2) To allow any animal or animals to frequently or habitually howl, bark, meow, squawk or make such noise in such a manner as to permit sound to be heard in any other person's dwelling unit with doors and windows closed and the source of sound generation is discernable regardless of whether such doors or windows are closed. A person is subject to the penalties below only if he is found to have violated this subsection three (3) or more times in a thirty (30) day period.

Sec. 6-20-E. Exemptions.

The following specific activities or sources of noise shall be exempt from the regulations set forth in this Article:

- (1) Noise generated on property zoned “Light Industrial” in connection with business being performed pursuant to the permitted uses as defined in the Bath County Zoning Regulations;⁴
- (2) Noise generated in connection with agricultural operations;⁵
- (3) Activities or land use for which a conditional use permit has been issued or a special exception has been granted by Bath County.
- (4) Activities or events which have been granted by Bath County pursuant to this Chapter.
- (5) Activities for which the regulation of noise has been preempted by federal law.
- (6) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency.
- (7) Sound generated by the operation of any governmental function or activities sponsored by the County.
- (8) Lawful activities on or in public and school athletic facilities and on or in publicly owned properties and facilities, including but not limited to, devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (9) Military activities of the Commonwealth of Virginia or of the United States of America.
- (10) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs, which are a part of such service, event, activity or expression.

Sec. 6-20-F. Violation and Civil Penalty.

Any person who violates any provision of this Article shall be assessed a civil penalty of \$250 for the first offense and \$500 for each subsequent offense.

⁴ Virginia Code § 15.2-980 provides that localities cannot enforce civil penalties for noise violations against businesses on industrial property.

⁵ Virginia Code §§ 3.2-301 and 15.2-2288.6 limit the ability of localities to regulate agricultural operations.

Sec. 6-20-G. Other remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property, arising from violation of this article or arising from noise that either is exempted or does not violate this article.

This ordinance shall become effective on and from the date of its adoption.

ARTICLE V. REGULATION OF SMOKING⁶

Sec. 6-21. Application of Article.

This Article is enacted under the Virginia Indoor Clean Air Act, Virginia Code Section 15.1-291.1 et seq. (the "Act"), and is intended to prohibit smoking, in addition to those areas where smoking is prohibited by the Act, in all County offices and County office buildings. The provisions of this Article shall not apply to office, work or other areas, including but not limited to those of the Department of Corrections, which are not entered by the general public in the normal course of business or use of the premises.

Sec. 6-22. Definitions.

Terms used but not defined herein shall have those definitions set forth in the Act. In addition, the following definitions shall apply:

"*County*" means Bath County, Virginia, any department or agency thereof, and the Bath County Board of Supervisors.

"*County office*" means any enclosed, indoor area owned, leased or the use of which is under the control of, the County.

"*County office building*" means any building owned, leased, or the use of which is under the direction and control of, the County.

"*Smoke*" or "*smoking*" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

Sec. 6-23. Policy.

⁶ State law reference-Virginia Code Section 15.1-291.1 et seq. Contents of this Article are based on the following County ordinance – Ord. of 3-11-97.

(a) *General Prohibition.* Pursuant to Virginia Code Section 15.1-291.2.B., it shall be unlawful for any person to smoke in any of the following places:

- (1) Elevators, regardless of capacity, except in any open material hoist elevator, not intended for use by the public;
- (2) Public school buses;
- (3) The interior of any public elementary, intermediate, and secondary school; however, smoking may be allowed by a local school division in a designated area which is not a common area, including but not limited to, a classroom, library, hallway, restroom, cafeteria, gymnasium, or auditorium after regular school hours so long as all student activities in the building have been concluded;
- (4) Hospital emergency rooms;
- (5) Local or district health departments;
- (6) Polling rooms;
- (7) Indoor service lines and cashier lines;
- (8) Public restrooms in any building owned or leased by the Commonwealth or any agency thereof;
- (9) The interior of a child day center licensed pursuant to Virginia Code § 63.1-196 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by the laws of Virginia or this Article;
- (10) Public restrooms of health care facilities.

(b) *Prohibition on Smoking in County Offices and County Office Buildings.* It shall be further unlawful for any person to smoke in any County office of County office building, including, but not limited to, the Courthouse, Bath County Department of Recreation building, Waste Transfer Station office, Animal Shelter, Bath County Public Library, and Millboro Child Care Center, and in any room or enclosed space used for a meeting sponsored by the County to which members of the public are invited.

(c) *No-Smoking Signs.* The County shall promptly post "No Smoking" signs in a clear, conspicuous and sufficient manner in County offices and office buildings to remind the public and employees of the prohibition against smoking in such buildings. However, a failure to post such signs shall not excuse a violation of the prohibitions of this Ordinance.

(d) *Prohibition on Smoking in Private Work Places.* Employers may regulate smoking in private work places as they deem appropriate in accordance with the provisions of Virginia Code Section 15.1-291.8.

Sec. 6-24. Enforcement.

- (a) Each violation of this Article shall result in a fine of twenty-five dollars.
- (b) Any law enforcement officer may issue a summons regarding a violation of this Article.

**ARTICLE VI. REGULATION OF FOOD AT FAIRS HELD IN BATH COUNTY
AND YOUTH ATHLETIC ACTIVITIES⁷**

Sec. 6-25. Exemptions.

The provisions of title 35.1 of the Code of Virginia as pertains to health and sanitation for restaurants shall not apply to:

- (1) Food booths at fairs, if such booths are promoted or sponsored by any political subdivision of the Commonwealth or by any charitable nonprofit organization or group thereof.
- (2) Concession stands at youth athletic activities, if such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized as being a part of the recreational program of the political subdivision where the association or organization is located by an ordinance or resolution of such political subdivision.

The term “*food booth*” shall include any temporary food establishment, whether it be a tent, canopy, shelter, trailer, mobile kitchen, or other shelter that operates for no more than 14 consecutive days in conjunction with a single event or celebration.

The term “*fair*” shall include any fair, festival, sponsored community event or celebration, such as those commonly called Wings and Wheels, Relay for Life, Eden Church Applebutter Festival, Millboro Firemen’s Carnival, Millboro Preservation and Cultural Association (MPCA) Wildcat Festival, etc.

The term “*youth athletic association*” shall include any school, school sanctioned booster club, local government recreation department, etc.

No food booth operating under this exemption will be required to obtain a permit to operate.

The Bath County Health Department will not conduct inspections of the food preparation or service at exempted food booths. Upon request, the Bath County Health Department will offer advice, targeted education, and guidance related to the safe and sanitary methods of food preparation and service.

Any group or organization that proposes to operate a temporary food booth at a fair shall contact the Bath County Health Department at least ten days in advance of the event. Documentation will be required to prove that the group or organization is sponsored by a political subdivision of the Commonwealth, or is a charitable non-profit organization or group thereof. The proposed operation must be described and the proposed menu submitted. The Bath

⁷ After a duly advertised and conducted public hearing held on Tuesday evening, November 9, 2010, on motion by the Hon. Stuart L. Hall, the Board of Supervisors amended the Bath County Code, Chapter 6, Health and Sanitation, to add Article 6 “Regulation of Food at Fairs Held in Bath County and Youth Athletic Activities” by a unanimous affirmative vote (5-0), and made the ordinance effective at midnight, November 9, 2010.

County Health Department will make a determination as to whether the submitted proposal meets the standards for exemption, or if a permit to operate will be required per Virginia State Code and regulation.

The following are recommended guidelines for the safe preparation and service of food booths operating under this exemption:

A. Physical Facility

- 1) Overhead protection that is both wind resistant and waterproof shall extend over all food preparation, service, and storage areas, except that cooking equipment such as grills and smokers that have lids may sit outside the confines of the overhead protection.
- 2) Food booths without properly finished flooring shall be set up on asphalt, concrete, decking, or grass. Dirt or gravel are acceptable only if covered with mats, carpet, duckboards, or platforms to control dust and mud.

B. Equipment and Utensils

- 1) Facilities for proper handwashing shall be provided. This may include one of the following:
 - a. Hot and cold running water, soap, and disposable towels; or
 - b. Warm water in a closed container with a spigot or tap, soap, and disposable towels; or
 - c. If no raw meats or seafood are being handled and only limited preparation is involved (such as hot dogs or sno-cones), disposable anti-microbial hand towelettes or a hand sanitizer with disposable towels may be considered for use.
- 2) Adequate equipment shall be available to hold food hot, cold, or frozen as the menu will necessitate. This may include refrigerated trucks, portable coolers or ice chests, grills, steam tables, holding cabinets, warming units, etc.
- 3) A three compartment sink or three containers of adequate size shall be provided for washing, rinsing, and sanitizing food contact surfaces of equipment. Detergent and sanitizers shall be provided, as well as a test kit or strips to check concentrations of sanitizer. (Chlorine = 50-200ppm) Food contact surfaces of equipment and utensils shall be cleaned and sanitized prior to use.
- 4) A digital food probe or properly calibrated metal stemmed slim-tipped food thermometer capable of reading from 0F-220F shall be provided.
- 5) Single service containers and utensils shall be provided. (Paper, plastic or styrofoam plates, bowls, and cups; foil, deli wraps, plastic utensils, etc.)
- 6) Easily cleanable tabletops and work surfaces shall be provided as needed.
- 7) Adequate trash receptacles and plastic liners shall be provided for the disposal of all garbage/refuse during and after the event.

C. Personal Cleanliness and Hygiene

- 1) No person that is coughing, sneezing, has a runny nose or discharges from the nose, eyes, or mouth, has an open cut or sore, or has recently experienced symptoms of diarrhea or vomiting shall be allowed to prepare or serve food.
- 2) Food handlers should wear a hair restraint such as a hat, shall wear clean clothing, and remove all watches, bracelets and rings with the exception of a plain wedding band.

- 3) Food handlers shall frequently wash their hands and exposed portions of their arms by vigorously rubbing together the surfaces of their lathered hands and arms for at least 15 seconds and thoroughly rinsing with clean water.
- 4) Food handlers shall not contact ready-to-eat foods with their bare hands. Spatulas, tongs, serving spoons, deli-wrap, and/or single use disposable gloves shall be used to prevent hands from contacting ready-to-eat foods. Gloves shall be used for one purpose only, and changed between uses.
- 5) Food handlers shall not smoke or eat while on duty or present at the booth.

D. Food Sources, Temperature Requirements

- 1) All food products (including beverages and ice) shall come from an approved source that complies with law. Foods not prepared on-site may be prepared and properly transported from the kitchen of an exempt organization or from the home of a member. All canned products (hermetically sealed container such as cans, tins, glass jars, etc.) shall be obtained from a commercial source approved by the Virginia Department of Agriculture and Consumer Services. **Absolutely no “home-canned” products may be offered to the public for consumption or used as ingredients in any product offered to the public for consumption.**
- 2) Beverages should be offered in cans or bottles. Beverages prepared by the operator (such as tea, coffee, or lemonade) shall be made with water from an approved source, and held in covered containers.
- 3) Potentially Hazardous Food (PHF) means a food that requires temperature control because it is in a form capable of supporting bacterial growth and causing disease. PHFs include raw and cooked meats, poultry, seafood, dairy products, eggs, cooked vegetables, cut tomatoes and melons, garlic-in-oil mixtures, custards, batters, rice, pastas, etc.
- 4) Potentially Hazardous Foods shall be temperature controlled to prevent the growth of harmful bacteria and microorganisms. PHFs shall be held:
 - a. Below 41°F if held cold (refrigerated); or
 - b. Above 135°F if held hot waiting for service; or
 - c. Frozen solidly, and properly thawed prior to use.
- 5) PHFs that must be reheated prior to service shall be heated to greater than 165°F within two hours and the temperature verified by the use of a clean probe thermometer.
- 6) PHFs held at a temporary food booth should NOT be held over and offered for consumption at a later time, except those items not used that remained properly refrigerated or frozen.
- 7) All PHFs that are cooked shall be checked with a proper probe thermometer and the internal temperature in the thickest part shall reach a minimum temperature for more than 15 seconds as specified below:
 - a. Raw meat, pork, fish, and eggs shall be cooked to 145°F or above.
 - b. Hamburger and ground, comminuted, or injected meats shall be cooked to 155°F or above.
 - c. Poultry, any product with raw poultry as an ingredient, stuffed meats, or any stuffing containing meats, and wild game that is approved for sale shall be cooked to 165°F or above.
 - d. Whole intact-muscle beef steaks may be served if the exterior is cooked to 145°F and a color change is achieved on all external surfaces due to heat searing.

- e. Alternative temperatures and times as can be found in the FDA Food Code for products or times not mentioned above.
- 8) Any PHF that is cooked in advance shall either be held hot until service (above 135°F) or the PHF shall be cooled to below 70°F within two hours, and further cooled to below 41°F within four hours, then properly refrigerated. Large volumes of food shall be reduced in mass or divided into smaller containers, spread thin in shallow pans, iced, and/or agitated as necessary to bring the temperature to below 70°F and then 41°F within the proper time limits as indicated above.
- 9) Food preparation and menu offerings shall be limited to products that can be safely prepared in the available temporary food booth setting.
- 10) Self-service condiments shall be individually packaged or served from a squeeze bottle. (No common dipping from a bowl)

E. Transportation & Storage

- 1) Food products or single service items may not be stored on the ground.
- 2) Raw animal products shall be safely separated from ready-to-eat foods, and stored in a manner so that bloody juices will not contaminate clean work surfaces, equipment, or utensils.
- 3) Food stored on ice may not be in water. Coolers shall be drained.
- 4) Food that is transported from the kitchen of the organization or the home of an organization member shall be properly transported, which includes being tightly covered and temperature controlled if necessary.

F. Water, Sewage and Wastewater, Toilets

- 1) An adequate supply of water from an approved source shall be provided and available for food preparation, for cleaning and sanitizing of equipment and utensils, and for handwashing. Approved sources are municipal water systems or other public waterworks.
- 2) If connecting to an approved pressurized water system, a white hose approved for potable water shall be used.
- 3) All sewage (including liquid waste from handwashing, food preparation, cooler drains, and utensil washing) shall be collected and disposed of in an approved and sanitary manner. Wastewater shall not be allowed to run onto or be dumped onto the ground surface or disposed of in storm drainage systems.
- 4) Toilets shall be available to operators and customers within a reasonable distance.

State law references: Similar provisions, Code of Virginia, § 35.1-26.