



PRINCE WILLIAM COUNTY

Office of the County Attorney

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June 14, 2022

TO: Board of County Supervisors

FROM: Michelle R. Robl
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Nathan C. Welch
Assistant County Attorney

AGENDA: June 28, 2022
PUBLIC HEARING

RE: **COUNTY CODE UPDATE**

Adopt annual amendments to the County Code, some of which are mandated by changes to state law: amendments to Chapter 2 (Administration), Chapter 2.5 (Alarm Systems), Chapter 4 (Animals and Fowl), Chapter 5 (Buildings and Building Regulations), Chapter 10.1 (Human Rights), Chapter 13 (Motor Vehicles and Traffic), Chapter 19 (Personnel), Chapter 22 (Refuse), Chapter 25 (Subdivisions), Chapter 26 (Taxation), Chapter 27 (Taxicabs), and Chapter 31 (Weapons).

Every year, the Board reviews the Prince William County Code of Ordinances ("County Code") following the General Assembly's general session, primarily to ensure that the County Code is amended to remain consistent with the Virginia Code given recent legislative changes. The General Assembly has concluded this year's general session and several Acts of the Assembly necessitate amendments to the County Code. This Office recommends the attached amendments to the County Code, as part of this annual review process. Amendments to the County Code, such as those proposed, require a duly advertised public hearing. The Board authorized the public hearing for June 28, 2022, and the public has been duly notified as required by law.

Many County Code sections, or provisions therein, are specifically enabled by corresponding Virginia Code sections. Often, these County Code sections must be in strict conformity with their corresponding Virginia Code sections to remain enforceable. Because several Virginia Code sections requiring strict conformity were amended by Acts of the General Assembly, those corresponding County Code sections must also be amended. In addition, we have included other proposed

amendments to correct errors or inconsistencies discovered over the course of this year to ensure that the County Code is accurate, lawful, and consistent.

The proposed changes to the County Code are attached and are largely self-explanatory. Below is a brief description of the proposed changes by Chapter:

Chapter 2 (Administration)

We propose amendments to the County Code, specifically related to Article VIII. Police Auxiliary, to reflect the additional instance in which a locality may call into service its police auxiliary members. The Board has previously authorized the formation of a Police Auxiliary and has delegated the Board's authority to call into service members of the Police Auxiliary to the chief of police, or his/her designee. As the Board had delegated this authority to the chief of police, or his designee, it is recommended that the additional instance in which the police auxiliary members may be called into service be included in the delegated authority given the chief of police, or his designee, in County Code § 2-277. Additionally, it is recommended that County Code § 2-180 be amended to reflect the jurisdictional limits of police auxiliary members more accurately and in keeping with the language used in Code of Virginia § 15.2-1735.

We are also recommending an amendment to County Code § 2-206 to update a reference to the Virginia Code.

Chapter 2.5 (Alarm Systems)

We propose amendments to County Code §§ 2.5-22 and 2.5-24 to reflect changes in the authorizing statute for local ordinances regarding the regulation of alarm systems, Code of Virginia, § 15.2-911. The changes to Virginia Code § 15.2-911 provide new restrictions on a locality's ability to regulate, or prohibit, a specific type of security system, newly defined as a "battery-charged fence security system." We recommend adding this new term to our definition section and including the new Virginia Code requirements regarding this type of system in County Code §2.5-24. We note that the recent changes to Virginia Code § 15.2-911 does authorize certain local regulations, but these are discretionary and would need to be developed and considered separately from the annual County Code update.

Chapter 4 (Animals and Fowl)

A state statute regarding vicious and dangerous dogs was modified to clarify jurisdictional limits and include an expedited hearing process. Provisions of the state statute are mirrored in the County Code. As a result, we recommend amending County Code § 4-20 to parallel the new state statutory language. Likewise, a newly enacted section of the Code of Virginia requires animal shelters preform certain acts during their search for the rightful owner of a newly sheltered dog. Several state statutes have also been amended to reference the newly enacted section. A few of these amended statutes are mirrored in the County Code, specifically in County Code § 4-24. Thus, we recommend amending County Code § 4-24 to parallel the new state statutory language.

Chapter 5 (Buildings and Building Regulations)

County staff informed our office that County Code § 5-95 contained several outdated references to sections of the Uniform Statewide Building Code. Upon a review of County Code § 5-95 and the most recent Uniform Statewide Building Code, our office determined that several referenced Uniform Statewide Building Code sections were outdated, as they have been removed from the Uniform Statewide Building Code or have been substantively changed to such an extent that continued reference in the County Code would no longer reflect the Board's considered determination regarding that referenced Uniform Statewide Building Code section. As such, we recommend removing the references to the outdated Uniform Statewide Building Code sections.

Chapter 10.1 (Human Rights)

Last year, during the first special session, the Governor and General Assembly passed legislation regarding unlawful discrimination against protected classes. The state statute modified and defined the term for the protected class from "status as a veteran" to "military status." During our review last year, we did not include the corresponding language changes to the County Code in our list of recommended amendments to the County code. We do so here. As such, we recommend that County Code §§ 10.1-3, 10.1-4, and 10.1-5 be amended to reflect the state's term for the protected class.

Chapter 13 (Motor Vehicles and Traffic)

The amendments to Chapter 13, to become effective on July 1, 2022, include removing the restriction on law enforcement officers from stopping a person for a violation of §§ 13-102, 13-103, or 13-104. These amendments are recommended by staff and responsive to Board Directive 22-20 -May 10, 2022 – HB 632. County Code §§ 13-40, 13-108, 13-133.1, 13-135, and 13-228.1 all have language that was recently added to or removed from the parallel state statutes. We recommend updating these County Code sections to ensure they remain consistent with the state statutes.

Likewise, we recommend updating County Code § 13-196 to reflect the added and removed language from the parallel state statute, Virginia Code § 46.2-1121. However, as the changes to Virginia Code § 46.2-1121 do not become effective until July 1, 2023, we recommend that the amendments to County Code § 13-196 become effective on July 1, 2023.

Chapter 19 (Personnel)

Similar to the reasoning for the recommended changes to Chapter 10.1, we recommend County Code §§ 19-3 and 19-17 be amended to reflect the state's term for the protected class. We also recommend changes to County Code §§ 19-5 and 19-9 to remove the references to the library board, which is appropriate because of the integration of the library as a County agency. County Code § 19-5 should be further changed to remove part time employees from the exempt service because part time employees are now treated as competitive service employees in the PWC Personnel Policy.

Chapter 22 (Refuse)

County staff informed our office that County Code § 22-170 contained an erroneous reference to the month of December when it should be to the month of January. Upon review, this does appear to be a clear error and so we recommend amending the section to reference the correct month.

Chapter 25 (Subdivisions)

Virginia Code § 15.2-2243 was amended to change a “may” include provision into a “shall” include provision of a local ordinance. A locality has the discretion to adopt the local ordinance; but now, if it does adopt such an ordinance, it must include the “shall” provision. As we have already adopted the ordinance locally, but had not included the relevant provision, we must now include the provision in order to comply with the authorizing legislation.

Chapter 26 (Taxation)

County Code §§ 26-17, 26-20, 26-58, 26-77, 26-91, 26-92, 26-234 all contain language that was recently added to or removed from the parallel state statutes, which become effective July 1, 2022. We recommend updating these County Code sections to ensure they remain consistent with the state statutes. The changes to County Code §§ 26-236, 26-237, and 26-238 are necessitated by recent changes to their parallel state statutes; however, we recommend referencing the state statutes, and adopting them by reference, rather than attempting to mirror the state statutes verbatim.

We further recommend updating County Code §§ 26-121, 26-122, 26-123, 26-125, and 26-129. These changes are more significant than many of our other recommendations because these County Code sections have been largely unmodified or amended since they were enacted and despite changes over the years to their parallel state statutes. The recommended changes to these sections reflect recent legislation that will become effective on October 1, 2022, and should also align the County Code with parallel state statutes more generally. However, as some of the recommended changes are in response to recent legislation that will not become effective until October 1, 2022, we recommend that the amendments to County Code §§ 26-121, 26-122, 26-123, 26-125, and 26-129 become effective on October 1, 2022.

Chapter 27 (Taxicabs)

County Code § 27-151 calls for the Prince William County Police Department’s taxicab inspector to do meter recalibrations. However, because of practical considerations, County staff has requested that inspections be more generally permitted by any “Certified Meter Technician licensed by the Virginia Department of Weights and Measures”.

Chapter 31 (Weapons)

The list of prohibited weapons in Virginia Code §18.2-31 was recently modified and the new list becomes effective July 1, 2022. We recommend updating County Code § 31-7 to ensure that it remains consistent with Virginia Code § 18.2-311.

