

**MOTION: NOHE**

**October 6, 2009  
Regular Meeting  
Ord. No. 09-59**

**SECOND: MAY**

**RE: ADOPT AMENDMENTS TO THE PRINCE WILLIAM COUNTY CODE TO CHAPTER 2 (ADMINISTRATION) FOR ENHANCED DISCLOSURE OF PERSONAL INTERESTS BY EMPLOYEES AND MEMBERS OF BOARDS, COMMITTEES AND COMMISSIONS, CHAPTER 5 (BUILDINGS AND BUILDING REGULATIONS) TO DISESTABLISH THE CONTRACTOR HEARING PANEL, AND CHAPTER 23.2 (STORM WATER MANAGEMENT) TO DISESTABLISH THE STORM WATER MANAGEMENT APPEAL BOARD; AND DISESTABLISH BRENTSVILLE COURTHOUSE HISTORIC CENTRE TRUST, COMMISSION FOR WOMEN, COUNTY-CITY NEGOTIATING TEAM, PRINCE WILLIAM HEALTH PARTNERSHIP AUTHORITY, AND YOUTH SERVICES BOARD; AND COMBINE THE SOLID WASTE MANAGEMENT CITIZENS ADVISORY COMMITTEE AND SANITARY LANDFILL CITIZENS ADVISORY COMMITTEE**

**ACTION: APPROVED**

**WHEREAS**, the Prince William Board of County Supervisors, pursuant to both general and specific authority granted by the Code of Virginia, has enacted certain provisions of Chapter 2 (Administration), 5 (Buildings and Building Regulations) and 23.2 (Storm Water Management) of the Prince William County Code; and

**WHEREAS**, a public hearing, duly advertised, was conducted this date for the purpose of considering adoption of the attached amendments to the Prince William County Code; and

**WHEREAS**, the Prince William Board of County Supervisors has received several recommendations to improve the structure of its boards, committees and commissions;

**NOW, THEREFORE, BE IT ORDAINED** that the Prince William Board of County Supervisors does hereby adopt the attached amendments to Chapter 2 (Administration) of the Prince William County Code for enhanced disclosure of personal interests by employees and members of boards, committees and commissions to be effective January 1, 2010;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby adopt the attached amendments to Chapter 5 (Buildings and Building Regulations) of the Prince William County Code to disestablish the Contractor Hearing Panel effective immediately;

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**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby adopt the attached amendments to Chapter 23.2 (Storm Water Management) of the Prince William County Code to disestablish the Storm Water Management Appeal Board effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 05-363 that established the Brentsville Courthouse Historic Centre Trust effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 89-446 that established the Commission for Women effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 88-36 that established the County-City Negotiating Team effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 01-789 that established the Prince William Health Partnership Authority effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 82-5-34 that established the Youth Services Board effective immediately;

**BE IT FURTHER ORDAINED** that the Prince William Board of County Supervisors does hereby rescind Res. No. 87-634 that established the Solid Waste Management Citizens Advisory Committee and rescind Res. No. 88-975 that established the Sanitary Landfill Citizens Oversight Committee effective immediately, and hereby creates an advisory group to be known as Solid Waste Citizens Advisory Group that shall:

1. Assume the functions and responsibilities currently assumed by the Solid Waste Management Citizens Advisory Committee and Sanitary Landfill Citizens Oversight Committee;

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2. Be composed of 16 members to be appointed by the Prince William Board of County Supervisors including seven to be chosen by magisterial district, one to be chosen at-large, six to be chosen from the Coles Magisterial District, and two to be chosen from the Dumfries Magisterial District and whose terms shall be co-terminous with those of the Prince William Board of County Supervisors; and
3. Be convened by the Director of Public Works or designee to meet with such members on a regular basis and report such meetings to the County Executive.

ATTACHMENT: Code Amendments

**Votes:**

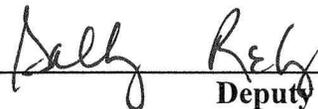
**Ayes:** Caddigan, Covington, May, Nohe, Principi, Stewart, Stirrup

**Nays:** None

**Absent from Vote:** Jenkins

**Absent from Meeting:** None

CERTIFIED COPY



Deputy Clerk to the Board

## PROPOSED AMENDMENTS TO THE PRINCE WILLIAM COUNTY CODE

### CHAPTER 2. ADMINISTRATION

#### ARTICLE III. DISCLOSURE OF PERSONAL INTERESTS BY COUNTY OFFICERS AND EMPLOYEES

##### Sec. 2-46. Purpose.

To enhance citizen confidence in local government, the disclosure of personal interests of certain county officers and employees is required in accordance with the Virginia State and Local Government Conflict of Interests Act of 1987.

##### Sec. 2-47. ~~When and by whom required~~ County officials and employees required to disclose.

Annually, on or before January 15 each year and in any case prior to assuming office or employment as a county officer or employee, specifically including members of the ~~school board, the board of county supervisors, the planning commission, the board of zoning appeals, the Prince William County Park Authority, the Prince William County Service Authority,~~ the county attorney and deputy county attorney, the county executive, and deputy county and assistant county executives, clerk to the board, all departments heads, all deputy and assistant department heads, all department division heads, real estate assessors, the finance director, the planning director, the Dale City Sanitary District administrator and assistant administrator, the director of economic development, the general manager and deputy general manager of the Prince William County Service Authority, and the director and deputy director of the Prince William County Park Authority, and the director of the department of development services shall make disclosure of their personal interests on the form required by ~~law~~ § 2.2-3117 and shall file a copy thereof with the clerk to the board.

##### Sec. 2-47.1. Members of authority governing bodies required to disclose.

Annually, on or before January 15 each year and in any case prior to their first meeting as a member of an authority governing body appointed by the board of county supervisors, specifically including members of the Prince William County Park Authority, Prince William County Service Authority, Cherry Hill Community Development Authority, Fairfax County Water Authority, Heritage Hunt Community Development Authority, Prince William County Industrial Development Authority, Peumansend Creek Regional Jail Authority, Prince William Health Partnership Authority, Stafford Regional Airport Authority, Upper Occoquan Sewage Authority, and Virginia Gateway Community Development Authority shall make disclosure of their personal interests on the form required by § 2.2-3117 and shall file a copy thereof with the clerk to the board.

**Sec. 2-47.2. Members of boards, commissions and councils required by state code to disclose.**

Annually, on or before January 15 each year and in any case prior to their first meeting as a member of a board, commission or council required by state code to make disclosure of their personal interests, specifically including non public agency representatives of the Community Policy and Management Team shall make disclosure of their personal interests on the form required by § 2.2-3117 and shall file a copy thereof with the clerk to the board.

**Sec. 2-47.3. Members of boards, commissions and councils as designated by the board of county supervisors required to disclose.**

Annually, on or before January 15 each year and in any case prior to their first meeting as a member of a board, commission or council as designated by the board of county supervisors, specifically including the Board of Equalization, Brentsville Courthouse Historic Centre Trust, Chesapeake Bay Preservation Area Review Board, Fire and Rescue Association, Innovation Owners Association Board of Directors, Manassas Regional Airport Commission, Northern Virginia Health Center Commission, Northern Virginia Manpower Consortium Workforce Investment Board, OPEB Master Trust Finance Board, Planning Commission, Potomac and Rappahannock Transportation Commission, Prince William – Manassas Convention and Visitors Bureau, Prince William – Manassas Regional Jail Board, Stormwater Management Appeal Board, Supplemental Retirement Program for Police and Fire, Trails and Blueways Council, Transportation Planning Board and Wetlands Board nonsalaried citizen members appointed by the board of county supervisors shall make disclosure of their personal interests on the form required by § 2.2-3118 and shall file a copy thereof with the clerk to the board. County officials and employees appointed to serve on the foregoing boards, commissions or councils as a representative of the County shall make disclosure of their personal interests on the form required by § 2.2-3117 and shall file a copy thereof with the clerk to the board.

**Sec. 2-48. Disclosure of real estate holdings form; contents, filing.**

All persons required by the foregoing section to file annual disclosure statements shall complete the form required by Code of Virginia, §§ 2.2-3117 et seq. and shall file a copy thereof with the clerk to the board, as provided in section 2-47 hereof. The county executive and real estate assessors, and members of the planning commission and board of zoning appeals shall, in addition to any other forms required by state law or this chapter, make disclosure of their real estate holdings on the form required by § 2.2-3115(F) of the act and shall file a copy thereof with the clerk to the board on or before January 15 each year and in any case prior to assuming employment or their first meeting as a member of such body.

**Sec. 2-48.1. Provisions relating to certain land use advisory committees.**

Nonsalaried citizen members of any board, commission or council created by the board of county supervisors to advise it or the planning commission on land use policies affecting zoning or density of specific identifiable parcels within the county shall, as a condition of assuming office, file a disclosure form of his or her personal interests and such other information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such form annually on or before January 15.

**Sec. 2-49. Maintenance of disclosure forms; availability for public inspection.**

The clerk to the board of county supervisors shall be responsible for the maintenance of the forms referred to in this article ~~section 2-48~~. Such forms shall be retained by the clerk for five years and be available for public inspection upon request under the provision of the Virginia Freedom of Information Act.

**Sec. 2-49.1. Additional disclosure.**

Nothing contained in this article shall be deemed to relieve any person subject to the Virginia State and Local Government Conflict of Interests Act from any requirement of disclosure of his or her personal interest in a transaction of specific application, not otherwise identified in the forms required hereby, ~~or from the additional disclosure required by § 2.2-3115(F) of the act pertaining to boards of zoning appeals, planning commissions, real estate assessors, and the county executive, and their ownership of interests in real property located within this county, and they shall make such additional disclosures as required thereby on the forms provided for the purpose.~~

## PROPOSED AMENDMENTS TO PRINCE WILLIAM COUNTY CODE

### CHAPTER 5. BUILDINGS AND BUILDING REGULATIONS

#### ARTICLE III. HOME IMPROVEMENT CONTRACTOR LICENSE\*

##### DIVISION 1. GENERALLY

###### **Sec. 5-31. Purpose of article; article applies whether or not construction permit required.**

The purpose of this article is to protect the health, safety and welfare of the citizens of the county by requiring contractors engaged in the business of home improvements to buildings and/or property, in return for payment not to exceed the contract payment limitations noted for specific home improvement license categories identified in subsection 5-52(c) of this article, when the total value referred to in a single contract or project is not more than the specified payment limitation, to obtain licenses and bonds and by prescribing the minimum elements of the contract between the contractor and the contract buyer. This article shall apply whether or not a construction permit is required for the work to be performed.

###### **Sec. 5-32. Definitions.**

For the purposes of this article the following words and phrases shall have the meaning ascribed to them in this section, unless the context clearly indicates a different meaning: *Class C certificate* is issued by the Commonwealth of Virginia and shall be required by a general home improvement contractor when the total value referred to in a single contract or project is no more than \$7,500.00. Landscape irrigation and water well contractors shall be licensed in accordance with Code of Virginia, § 54.1-1103B regardless of contract amounts.

*Class C contractor* shall mean a general home improvement contractor who performs or manages construction, removal, repair or improvements when the total value referred to in a single contract or project is no more than \$7,500.00.

*Contract* shall mean any agreement entered into between a contract buyer and a contractor for the performance of home improvements to buildings and/or property in return for payment not to exceed the contract payment limitations noted for specific home improvement license categories identified in subsection 5-52(c) of this article.

*Contract buyer* shall mean any person who offers payment in return for a promise to perform home improvements.

*Home improvement* shall mean the contracting for, and/or providing material and labor, or labor only for, repairs, improvements and additions to residential buildings and properties and/or structures accessory thereto where any payment of money or other thing of value is required, not to exceed the contract payment limitations identified in subsection 5-52(c) of this article. Home improvement includes the following:

Air conditioning

Carpentry  
Chimneys  
Decks masonry  
Driveway coatings  
Driveway paving  
Drywall  
Electrical  
Fireplaces  
Gas fitting  
Heating  
Landscape irrigation  
Plumbing  
Painting  
Roofing  
Siding  
Water well

*Home improvement contractor or contractor* shall mean any person who engages or offers to engage in the business of home improvements to buildings and/or properties, in the county, when the total value referred to in a single contract or project does not exceed the contract payment limitation for specific license category identified in subsection 5-52(c) of this article, whether full-time or part-time, provided, however, that this requirement shall not include class A or B contractors licensed by the state pursuant to Code of Virginia, § 54.1-1106 or 54.1-1108.

*Thing of value* shall mean any valuable consideration and shall include, but not be limited to cash, promissory notes, installment contracts or other written promises to pay, chattel mortgages or deeds of trust.

**Sec. 5-33. Exemptions from article.**

Nothing in this article shall apply to any person performing work on a building of which he is the bona fide owner, or to any public utility, its agents or employees, or to contractors licensed by the state in accordance with Code of Virginia, § 54.1-1106 or 54.1-1108.

**Sec. 5-34. Administration and enforcement of article generally.**

The administration and enforcement of this article shall be the duty of the building official or designated agent, who is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be reasonably necessary to enforce its provisions.

**Sec. 5-35. Violations of article.**

(a) It shall be unlawful and shall constitute a Class 1 misdemeanor for any person to violate any provision of this article.

(b) Notwithstanding the remedy cited in subsection (a) above, the building official may enforce the provisions of this article by any other means at law or in equity, including injunctive relief.

(c) Each day any person shall continue to violate the provisions of this article shall constitute a separate offense.

(d) The building official, or designated agent, is hereby authorized, whenever he may have reason to suspect that violations of this article have taken or are taking place, to require, by subpoena, the production of books or accounts, contract agreements, financial statements or other records which relate to the contractor's business.

**Sec. 5-36. Responsibility as to compliance with other code provisions, state law, etc.**

Nothing in this article shall be construed to exempt any home improvement contractor from compliance with all other applicable provisions of this Code. All contractors shall be responsible for seeing that required permits are obtained, that the laws of the county and state are complied with and that all work is performed in accordance with the conditions and terms of such permits.

**Sec. 5-37. Responsibility for act or omission by salesman or other agent.**

For the purposes of this article, the act or omission by any salesman or other agent of a home improvement contractor, while acting or purportedly acting on behalf of the contractor, which act or omission is in violation of this article or is cause for denial, suspension or revocation of the contractor's license, shall be considered the act of the contractor by whom such salesman or agent is employed, or for whom he purported to act, if such contractor approves the act, or after actual notice of the act or omission, retains the benefit, proceeds, profit or advantage accruing from the act or omission or otherwise ratifies it.

**Sec. 5-38. Contract requirements generally.**

(a) All agreements to perform home improvements involving a payment greater than \$100.00 shall be in writing and executed in triplicate, using the contract form submitted by the home improvement contractor in connection with his application for a license, which form shall set forth fully and completely the agreement between the parties and shall be signed by the contractor or his agent. In lieu thereof, the contractor may use a contract form substantially in compliance with a form prescribed by the building official.

(b) It shall be unlawful for a home improvement contractor to cause or permit any contract or other document relating to the performance of work to be signed by the contract buyer before all blank spaces are filled in with easily legible writing, and such contractor or his agent has submitted to the contract buyer the completed contract and other documentation and given him a reasonable opportunity to examine it. The contract buyer shall be given a copy of the contract when both parties have signed all copies of the complete contract, and a copy may be required to accompany the construction permit application when such permit is required for the work involved.

**Sec. 5-39. Required contract terms.**

All contracts shall include the following:

- (1) When work is to begin and the estimated completion date;
- (2) A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment;
- (3) A statement that final payment shall not be required until final approval is obtained from the building official's office, if the work involved requires a construction permit;
- (4) A listing of specified materials and work to be performed;
- (5) A "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
- (6) A statement of assurance that the contractor will comply with all local requirements for permits, inspections, and zoning;
- (7) Disclosure of the cancellation rights of the parties;
- (8) Contractor's name, address, license/registration number, expiration date, class of license/registration, and license classifications or specialty services; and
- (9) A statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

**Sec. 5-40. Contract buyer's right to cancel without penalty.**

(a) When a contract for work involves an extension of credit to the contract buyer, the contract buyer shall have a right to cancel the contract, without penalty, until midnight of the third business day after the day on which the contract buyer signs the contract, unless the contract buyer waives this right in accordance with subsection (c) of this section. Cancellation shall be effected by the buyer giving or mailing written notice of cancellation to the contractor at the contractor's address, which shall be stated in the contract. This section is in addition to and does not replace any contract buyer's "right to cancel" granted under applicable state or federal laws.

(b) No contract subject to cancellation by the contract buyer under the terms of this section shall be assigned until after midnight of the third business day after the day on which the contract buyer signs the contract.

(c) The contract buyer may waive his right to cancel under this section, if he desires immediate performance of the contracted work and if he makes a written statement in a dated writing, personally signed by him, which expressly states that the buyer understands that he is waiving his right to cancel the contract under this section. Such a waiver may be on a form supplied by the contractor, if that form has been approved by the building official as provided in subsection 5-54(a).

**DIVISION 2. LICENSE**

**Sec. 5-51. Required.**

- (a) No person shall engage in the home improvement business as a home improvement contractor, unless he has a current license issued in accordance with this division, or is licensed by the state pursuant to Code of Virginia, § 54.1-1106 or 54.1-1108.
- (b) The building development division shall not issue a permit for home improvement work to a contractor who does not have a current license issued in accordance with the requirements of this division.
- (c) The license issued under this division shall be in addition to the license required under Chapter 11.1 of this Code.

**Sec. 5-52. Categories of home improvement contractor license; special requirements.**

- (a) One or more of the following categories, each of which may have special requirements, shall be identified on the license:
  - (1) Heating or air conditioning (Abbr: HVA) are those whose work includes the installation, alteration, or repair of heating systems, ventilating systems, and cooling systems.
  - (2) Plumbing (Abbr: PLB) are those whose work includes the installation, maintenance, repair, extension, alteration or removal of all piping, fixtures, appliances, and appurtenances in connection with the sanitary drainage system or the water supply systems. This category shall include water well contractors.
  - (3) Electrical (Abbr: ELE) are those whose work falls within the provisions of the National Electrical Code.
  - (4) Gas Fitting (Abbr: GFT) are those whose work provides for the installation, repair or improvement of gas pipes and appliances. (Note: This function can only be performed in conjunction with the plumbing, heating or air conditioning category.)
  - (5) General Home Improvement (Abbr: GHI) are those home improvements that do not include the specific categories of heating or air conditioning, plumbing, electrical, or gas fitting.
  - (6) All contractors licensed to perform specific categories of limited service and repair, prior to January 1, 1993, shall not be required to meet the special requirements outlined in subsection 5-52(b) until January 1, 1998.
- (b) Special requirements for license categories. For each of the following categories, home improvement contractors will be required to employ the services of a master tradesman, certified by the Commonwealth of Virginia, in order to receive and maintain the license category:
  - (1) *Heating or air conditioning* : requires master mechanical certification.
  - (2) *Plumbing* : requires master plumber certification.
  - (3) *Electrical* : requires master electrician certification.
  - (4) *Gas fitting* : requires master gas fitter certification and master plumber or master mechanical certification.
- (c) Contract payment limitations for license categories in all categories shall not exceed \$7,500.00.
- (d) Surety bond requirement for home improvement license in all categories is \$10,000.00.

**Sec. 5-53. Application generally.**

- (a) An application for a license to engage in business as a home improvement contractor shall be submitted to the building official in such form and detail as the building official shall prescribe. Every such application shall be affirmed as true by the applicant and shall specify the individual on whom notices may be served pursuant to this chapter.
- (b) Each application submitted under this section shall be accompanied by a nonrefundable processing fee in the amount prescribed by the fee schedule adopted by the board of county supervisors.

**Sec. 5-54. Documents to accompany application.**

An application for a home improvement contractor's license required by this division shall be accompanied by:

- (a) A copy of the contract forms to be used by the contractor, which shall be in accordance with the provisions of this article, and which shall be approved by the building official. In lieu thereof, a contractor may use a contract form which is in substantial compliance with a form prescribed and approved by the building official, specimen copies of which shall be supplied to each applicant for a license. The applicant may also submit for approval by the building official a form to be used as an emergency waiver of the waiting period established in section 5-40 of this article.
- (b) If the applicant is a nonresident of the state, a designation, by name and address of the person who is a resident of the state and who, by a signed and notarized statement, agrees to be the statutory agent of the applicant to accept service of process, notices, summons or other legal notices upon such statutory agent, which when duly made, shall constitute sufficient foundation for a personal judgment against the applicant, when the other requisites therefor exist. Such statutory agent shall notify the building official, in writing, of any change in his address or any change in the conditions of his agreement to act as agent for the applicant.
- (c) A copy of the Commonwealth of Virginia's Master Tradesman Certification, if applicable for specific license category.
- (d) A copy of the class C contractor certificate issued by the Commonwealth of Virginia, if applicable, for specific license category.

**Sec. 5-55. Applicant's bond or other security.**

- (a) Each applicant for a home improvement contractor's license shall file with the building official a surety bond or other security approved by the county attorney, in the sum specified in subsection 5-52(d), payable to the county. Each such bond shall be in a form approved by the county attorney, shall be from a bonding company licensed to do business in the state and shall be kept in force during the entire license period or the license shall be invalid.
- (b) A bond required by this section shall be conditioned upon the observance, by the principal, of all statutes, ordinances or regulations in force in the county which relate, directly or indirectly, to the conduct of the principal's business. Such bond shall also be

conditioned to indemnify and save harmless any contract buyer or materialman from any expense or damage that may result to him from:

- (1) The principal's violation of any statute, ordinance or regulation in force in the county which relates, directly or indirectly, to the conduct of the principal's business; or
  - (2) The principal's performance of any contracted work in a negligent or otherwise defective manner; or
  - (3) The principal's default or other material breach in the conduct of contracted work.
- (c) Any person aggrieved by any act of the principal in violation of the conditions of the bond required by this section shall have, in addition to his right of action against the principal, a right to bring suit against the surety on the bond, and to recover, in an amount not exceeding the amount of the bond, any damages sustained by reason of any act of the principal which is in violation of the conditions of the bond.
- (d) Any security deposited pursuant to this section shall be retained by the building official for at least three years after the expiration of the license in connection with which such security was deposited and, if the building official is notified in writing that a suit has been filed against the licensee as a result of which a judgment may be payable out of such security, it shall be held until such time as such suit has been reduced to judgment and the period for filing an appeal from such judgment has expired or until the suit is otherwise disposed of.
- (e) Nothing in this section shall be construed to impose upon the surety on any bond a greater liability than the total amount thereof; or the amount remaining unextinguished after any prior recovery or recoveries.

**Sec. 5-56. Fee.**

The fee for the issuance or renewal of a license required by this division, shall be the amount prescribed by the fee schedule adopted by the board of county supervisors.

**Sec. 5-57. Issuance or denial generally; term.**

- (a) A license applied for under this division shall be granted by the building official, unless one or more of the following facts are found to exist and, even if facts (1), (2) and (3) exist, the license shall be granted, if the applicant produces satisfactory evidence that he will perform his contracts notwithstanding the existing of such facts:
- (1) That the applicant has failed to pay financial obligations that were outstanding during the two-year period prior to the filing of the application, or the applicant is financially insolvent.
  - (2) That the applicant has had a license similar to the license provided for by this division suspended or revoked by the State of Maryland, the State of Virginia, or any political subdivision of either, or the District of Columbia, within the three-year period prior to the filing of the application.
  - (3) That the applicant has, in the three-year period prior to filing of the application, been found guilty of fraudulent or dishonest dealing in the contracting business in the State of Maryland, the State of Virginia, or any political subdivision of either, or in the District of Columbia.

(4) That the applicant has made a material misstatement or concealed a material fact in the application for a license.

(5) That the applicant has failed to make available to the building official such information as is requested for the purpose of determining if the applicant is entitled to a license.

(b) Upon approval of the application for a license or renewal of a license under this division, and the receipt of the required bond and the fee required by sections 5-55 and 5-56, the building official shall issue a license in such form and size as he deems appropriate and such license shall show on its face that it is valid for one year from the date of issuance. The license shall bear a warning in the nature of a disclaimer of any implied warranty by the county of any work performed by the licensee.

(c) When a license applied for under this division is denied, the applicant shall be entitled to a written statement, setting forth the reasons for denial, and shall be entitled to appeal the decision of the building official under the procedure set out in section 5-59 this division.

**Sec. 5-58. Licensee's identification card.**

(a) The licensing authority shall prepare and issue to each licensee under this division an identification card which shall certify that the person whose name appears thereon is a licensed home improvement contractor. Such card shall bear a warning in the nature of a disclaimer of any implied warranty by the county of any work performed by the licensee. Each licensee shall carry on his person his identification card and shall display such card upon the request of any contract buyer, prospective contract buyer or other person with whom the licensee may deal in connection with carrying on his activities as a contractor.

(b) Upon request by a bona fide licensee under this division and upon the receipt of a fee in the amount prescribed by the fee schedule adopted by the board of county supervisors for each duplicate, the building official shall issue to such licensee duplicate copies of the identification card provided for in this section. It shall be unlawful for any person in possession of such a duplicate identification card to represent that he is a licensee or representative of a licensee, if such permission to use the identification card has not been granted by the licensee.

**Sec. 5-59. Grounds, procedures, etc., for suspension, revocation or denial.**

(a) No home improvement contractor, nor any agent of such contractor, shall engage in any of the following acts or practices, the commission of which shall be cause for suspension or revocation of the contractor's license or for denial of an application for renewal thereof; in addition to any other penalties provided at law:

(1) Failure or refusal to comply with the provisions of any statute, ordinance or regulation in force in the county which relates, directly or indirectly, to the conduct of the contractor's business.

(2) Gross negligence or continued incompetence or misconduct in the practice of his profession.

- (3) Use of any substantial willful misrepresentation or concealment in the procurement of a contract for work or making any false promise likely to influence, persuade or induce any person to enter into such a contract.
- (4) Use of any fraud in the execution of; or in the material alteration of; any contract, trust deed, mortgage, promissory note or other document incident to a contract.
- (5) Use of false, misleading or deceptive advertising as an inducement to enter into any contract.
- (6) Failure to pay judgments or failure to pay just debts which may result in liens against the property owner.
- (7) Failure to use or to complete all relevant parts of the contract forms approved by the building official in connection with the license application.
- (8) Failure to complete contract work as provided for in the contract.
- (9) Failure to provide information or records requested by the building official or person or body hearing any appeal pursuant to this division, when such information or records are being requested for the purpose of determining if a license should be revoked.
- (10) Use or provision of goods or services which the contractor knows, or reasonably should know, will be ineffective to produce the benefits contracted for.

Whenever the building official receives information that a licensee may be guilty of acts which constitute grounds for suspension or revocation of the license or for denial of an application for renewal of the license, he shall investigate such matter.

(b) The director of development services shall hear all appeals of decisions of the building official to deny, suspend or revoke a contractor's license ~~There is hereby established a contractor hearing panel composed of three members with two alternates as follows: The building official or designated agent and two members and two alternates appointed by the board of county supervisors for terms of two years each. At least one of the two members so appointed shall be a home improvement contractor licensed under this division.~~

(c) When the building official has determined that there is probable cause to deny, suspend or revoke a contractor's license, he shall notify the applicant or the licensee of this determination in writing. The notice shall include:

- (1) A statement of the facts which constitute the basis for the proposed action;
- (2) A statement specifying each separate violation of this chapter or other state or federal law;
- (3) A statement of the action the building official proposes to take; and
- (4) A concise statement of the procedure which the licensee or applicant shall follow to request a hearing before the director of development services ~~contractor hearing panel~~, including the deadline for a hearing request, the consequences of failure to request a hearing and the date the denial, suspension or revocation will become effective if no hearing is requested.

The notice shall be deemed properly served when a copy thereof is personally served on the applicant or licensee or when a copy is sent by certified mail, postage prepaid, to the latest address given on the application for a license.

(d) Any person who has been notified under this section that his license is being denied, revoked or suspended may request a hearing before the director of development services ~~contractor hearing panel~~. A request for a hearing must be received no later than 15 days from the mailing of the notice of the impending action. The hearing shall be held no later

than 30 days from receipt of a request for a hearing, unless otherwise agreed to by the applicant or licensee. Notice of the date, time and place of the hearing and of the procedures to be followed shall be given to the applicant or licensee sufficiently in advance of the hearing to allow a reasonable time to prepare for the hearing. Such hearing shall be informal. The licensee or applicant shall be advised of the evidence which tends to establish the grounds for suspension, revocation or denial of the license. The licensee or applicant shall have a right to question any person giving information and to present relevant information or testimony. It is permissible, but not required, for an applicant or licensee to have an attorney present at the hearing. A written or taped record of the proceedings shall be kept.

(e) After an opportunity for a hearing, if the building official or the director of development services ~~hearing panel~~, in a case where a hearing is held, determines from a preponderance of the available evidence that there are adequate grounds to deny, revoke or suspend a contractor's license, the building official or director of development services shall notify the licensee or applicant, in writing that his license is denied, revoked or suspended, stating the reasons for the decision. The notice of revocation, denial or suspension shall explain the appeal procedure and the effective date of a license revocation or suspension. A suspension shall be for at least ten days, but no longer than 180 days.

(f) Notice of revocation, suspension or denial of a license under this section shall be personally served on the applicant or licensee or sent by certified mail, postage prepaid, to the latest address given on the application for a license.

**Sec. 5-60. Appeal from suspension, revocation or denial.**

Appeal from the suspension, revocation or denial of a home improvement contractor's license shall be to the circuit court of the county. The party making such an appeal must file the appeal within ten days of the date of denial, suspension or revocation. If an appeal is made, the decision of the building official or the director of development services ~~contractor hearing panel~~ shall remain in effect until modified or rescinded by the court.

**Sec. 5-61. Records to be kept.**

The building official shall keep records of all licenses issued, suspended, revoked or denied under this division. These records shall be open to the public for inspection during regular business hours.

## PROPOSED AMENDMENTS TO PRINCE WILLIAM COUNTY CODE

### CHAPTER 23.2. STORMWATER MANAGEMENT

#### ARTICLE III. STORMWATER MANAGEMENT FUND

##### **Sec. 23.2-5. Establishment of stormwater management fund.**

(a) The stormwater management program is established and the stormwater management system is provided to protect the waterways and land in the county by controlling flooding and to protect the county's natural environment. The costs of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the county should, therefore, be allocated, to the extent practicable, to all property owners based on their impact on the stormwater management system. In order to provide revenue to fund those costs and to fairly allocate those costs, a stormwater management fund ("the fund") is established pursuant to Code of Virginia, § 15.2-2114.

(b) All revenues collected from the stormwater management fee or otherwise pursuant to this chapter shall be deposited to the fund. The board of county supervisors may make additional appropriations to the fund. All disbursements from the fund shall be for the purposes of the fund as set forth in section 23.2-6 of this chapter.

##### **Sec. 23.2-6. Purposes of the fund.**

The fund shall be used only for the following purposes:

- (1) The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate and maintain stormwater control facilities;
- (2) All costs of administration and implementation of the stormwater management program, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements;
- (3) Engineering and design, debt service, construction costs for new facilities and enlargement or improvement of existing facilities;
- (4) Facility maintenance;
- (5) Monitoring of stormwater control devices; and
- (6) Pollution control and abatement, consistent with state and federal regulation for water pollution control and abatement.

##### **Sec. 23.2-7. Administration of the fund.**

- (a) The board of county supervisors shall budget and appropriate for the fund annually.
- (b) The fund shall be managed in accordance with the purposes set forth in this chapter.
- (c) All revenues collected from fees imposed pursuant to section 23.2-8 shall be deposited into the stormwater management fund.

##### **Sec. 23.2-8. Stormwater management fee.**

- (a) There is hereby imposed a service charge on property in the county on the bases set forth in this chapter to fund the costs of operating the stormwater management program as set forth in section 23.2-9. This service charge shall be known as the stormwater management fee ("fee"). The director shall determine the amount of the fee to be charged to each property as set forth in this chapter.
- (b) The fee shall be paid by the owner of each parcel of developed property in the county.
- (c) The base rate will be established annually by the board of county supervisors. The base rate shall be calculated to insure adequate revenues to provide for a balanced operation, maintenance and capital improvements budget for the adopted stormwater management program.
- (d) The fee is based on:
- (1) The extent to which each property creates a need for the stormwater management system;
  - (2) The amount of impervious area on each property;
  - (3) The costs of implementing the stormwater management program; and
- (e) The fee shall be imposed effective July 1, 1994.

**Sec. 23.2-9. Classification of property for purposes of determination of the stormwater management fee.**

- (a) For purposes of determining the stormwater management fee, all properties in the county are classified into one of the following classes:
- (1) Developed residential property;
  - (2) Developed nonresidential property; or
  - (3) Undeveloped property.
- (b) Single-family detached residential properties will be charged the base rate for each dwelling unit, regardless of the size of the parcel or the improvements. Townhouses, condo-townhouses, and townhouse-apartments will be charged a flat rate of 75 percent of the base rate for each dwelling unit. Apartments and condominiums will be charged a flat rate of 75 percent of the base rate for each dwelling unit.
- (c) The monthly fee for developed nonresidential property shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area of the property by one base unit (2,059 square feet). The numerical factor will be rounded to the nearest tenth of a unit. The minimum stormwater management fee for any developed nonresidential property shall equal the base rate.
- (d) The monthly fee for vacant developed property, both residential and nonresidential, shall be the same as that for occupied property of the same class.
- (e) Undeveloped property shall be exempt from the fee.
- (f) The fee shall not be billed for properties owned by federal, state or local government agencies when those agencies own and provide for maintenance of storm drainage.

**Sec. 23.2-10. Adjustments.**

(a) Adjustments or reductions of the fee can be made upon application of the owner of developed nonresidential property to the director and upon certification by the director that the owner or the property meets the criteria of one of the following subsections and an adjustment in the amount certified by the director is therefore appropriate.

(b) For the first year in which a stormwater management fee is applied to property, adjustments certified by the director during that year shall be applied retroactively to the date on which the fee was first applied, if the director is satisfied that the circumstances under which the adjustment is certified existed on the date the fee is first applied to the property. In subsequent years, the date on which an adjustment is certified as appropriate by the director shall be the date on which the adjustment takes effect; the adjustment shall be prorated from that date for the balance of that year.

(c) Once certified, adjustments shall be effective for as long as the conditions and circumstances under which the adjustment was granted continue, and shall not be effective for the upcoming year without renewal on or before December 31 of each year. Renewals of adjustments may be granted upon reapplication by the owner of the property to the director and upon the director's determination that the property owner is in full compliance with the terms of any existing stormwater maintenance agreement. If an adjustment lapses for any reason, the property owner must reapply to the director in order to re institute the adjustment.

(d) Whenever the director becomes aware, through investigation upon complaint, through random inspection, or through any other means, that the owner has failed to maintain the conditions and circumstances under which an adjustment has been given, or has failed to perform under a required stormwater maintenance agreement or has failed to comply with the requirements of an approved program listed in subsection (2) below, the director may immediately revoke an adjustment by sending written notice of the revocation by certified mail, return receipt requested, to the owner of the property. The director's revocation may be appealed by the owner as a director's determination under section 23.2-13 is appealed. The director shall notify the director of finance of the revocation of an adjustment, and the revocation shall be effective ten working days after the date of the written notification, if the owner has not filed an appeal. If the owner files an appeal and the Board of County Supervisors ~~appeals board~~ upholds the director's revocation, then the revocation becomes effective on the date of the ~~appeals board's~~ decision affirming the revocation.

(1) Developed nonresidential property where stormwater management is provided by the owner on-site, and where the owner has entered into an appropriate stormwater maintenance agreement with the director may be eligible for the following adjustments under the following circumstances:

a. Where on-site stormwater management is provided for the property to standards which protect against the two-year 24-hour flood, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

b. Where on-site stormwater management is provided for the property to standards which protect against the ten-year 24-hour flood, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

c. Where on-site stormwater management is provided for the property to standards which protect against the 25-year 24-hour flood, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

d. Where on-site stormwater management is provided for the property to standards which protect against the 100-year 24-hour flood, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

e. Where best management practices are provided in accordance with county standards for water quality protection, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

f. Adjustments granted for supplying on-site stormwater management as described in subsections (1)(a) through (1)(e) above may be combined, so long as the maximum adjustment granted under this subsection does not exceed 50 percent.

(2) Developed nonresidential property where no adjustment under subsections (1)(a) through (1)(f) is applicable may be eligible for the following fee adjustments under the following circumstances:

a. Where the owner has agreed to participate in stormwater management or stormwater quality protection project approved by the board of county supervisors for use in granting fee adjustments, such as an adopt-a-pond project, a volunteer lawn program, and other pollution prevention programs, the owner may receive an adjustment of the fee to reduce the fee by ten percent.

b. If the owner participates in more than one project described in subsection a. above, adjustments granted for participating in those projects may be combined, so long as the maximum adjustment granted under this subsection does not exceed 30 percent.

**Sec. 23.2-11. Notification of determination of impervious area on developed nonresidential property.**

The director shall notify each owner of developed nonresidential property of the amount of impervious area on that property.

**Sec. 23.2-12. Stormwater management fee data; collection of fees.**

(a) Before or at the time of preparation of the land book for real estate taxation purposes, the director shall prepare and forward to the director of finance all necessary data for the billing of the stormwater management fee. This data shall include the identification of every parcel to be charged the fee and the amount of the fee to be charged, including all adjustments. The director of finance may cause the fee to appear on the real property tax bill for each property for which a fee is charged, as a separate line item, and shall collect the fees and deposit them to the fund. In his discretion the director of finance may determine to send bills for the stormwater management fee separate from real property tax bills.

(b) In the event that the fees are not paid when due, interest thereon shall commence on the first of the month following the month of the due date, at a rate equal to the interest rate charged for delinquent real estate taxes, until such time as the overdue payment and interest are paid. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.

(c) When developed properties receive an occupancy permit, the fee will commence, and the director will forward the data concerning the fee to the director of finance so that

the charge will be issued with the next tax bill. The director shall prorate the fee from the date the occupancy permit was issued.

(d) In the event of alterations or additions to the property which alter the amount of impervious surface area, the director will modify the fees upon receipt of the final building inspection of the alterations or additions. The director will forward this data to the director of finance so that the next real estate tax bill will reflect the modification of the fee. Increases or decreases in the fee resulting from alterations or additions to the property shall be prorated by the director from the date of the final building inspection.

**Sec. 23.2-13. Request for correction by the director.**

(a) The owner of developed nonresidential property may request a correction of the determination of impervious area on the property, by submitting the request in writing to the director within 20 days after receipt of notification of the amount of impervious area. The owner of developed nonresidential property may request a reconsideration of the denial of some or all of a requested adjustment, by submitting the request in writing to the director within 20 days after the date of any written determination by the director denying some or all of a requested adjustment. The owner of developed nonresidential property may request the correction of mathematical errors in calculating the fee to be applied to the property, by submitting the request in writing to the director within 20 days after receipt of the first bill containing the mathematical error.

(b) The director shall conduct a hearing, if requested, on the determination of impervious area on the property, or the granting of a requested adjustment, or the accuracy of the calculation of the fee, and shall make a determination within ten working days after the hearing. If the owner does not request a hearing, the director shall make a determination within ten working days after receipt of the owner's written request for correction.

(c) No issues other than those set forth in subsection (a) can be addressed by the director in a request for correction. If a request for correction raises issues other than those set forth in subsection (a) of this section, the director shall notify the owner within five working days that the request raises issues which are not properly the subject of a request for correction. The director's decision under this subsection shall be final.

**Sec. 23.2-14. Board of County Supervisors to hear appeals Stormwater management appeal board.**

(a) ~~The Board of County Supervisors shall~~ ~~A stormwater management appeal board ("appeal board") is established to~~ hear appeals from determinations of the director made under section 23.2-13. If the owner of developed nonresidential real property is aggrieved by a determination of the director on an issue listed in subsection 23.2-13(a), the owner may appeal that determination in accordance with this chapter.

(b) ~~The County Executive shall not designate either the Director of Public Works or Director of Finance to hear appeals in accordance with this chapter~~ ~~appeal board shall~~ consist of three members appointed by the board of county supervisors. One of the members of the appeal board shall be either a professional engineer or certified land

surveyor. ~~The members of the appeal board shall serve a term of one year commencing January 1, and they may be reappointed to successive terms.~~

**Sec. 23.2-15. Appeals to the Board of County Supervisors ~~appeal board~~.**

(a) An appeal may be filed by a property owner, who has paid his fees, with the director within ten working days of the determination of the director on an issue listed in subsection 23.2-13(a). The director shall forward the petition to the Board of County Supervisors ~~each member of the appeal board~~. The petition for appeal shall be in writing setting forth in detail the grounds upon which relief is sought. The Board of County Supervisors ~~appeal board~~ shall hear the appeal within 30 days of the filing and render a decision within 60 days of receipt of the appeal.

(b) The owner must comply with all rules and procedures adopted by the Board of County Supervisors ~~appeal board~~ when submitting an appeal petition. Failure to comply with all rules and procedures shall be grounds for denial of the petition.

(c) If the owner is appealing the director's determination as to the amount of impervious area on the property, the Board of County Supervisors ~~appeal board~~ shall have full authority to affirm, modify, reverse, or set aside the director's determination of issues under subsection 23.2-13(a). In evaluating the appeal, the Board of County Supervisors ~~appeal board~~ shall determine whether the decision of the director was issued in compliance with the standards, policies and criteria of the stormwater management program.

(d) All decisions of the Board of County Supervisors ~~appeal board~~ shall be final.

**Sec. 23.2-16. Severability.**

The provisions of this chapter shall be deemed severable and, if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this chapter shall remain in full force and effect.