

Chapter 13 - OFFENSES

***Cross reference**— Court costs, §§ 2-126 et seq.; repair, removal or security of buildings and other structures harboring illegal drug use, § 10-1; Repair, removal or security of buildings and other structures harboring a bawdy place, § 10-4; noise, § 10-67 et seq.; unnecessary noise in operation of vehicle, § 22-36.

ARTICLE I. - IN GENERAL

Secs. 13-1–13-18. - Reserved.

ARTICLE II. - CONDUCT

Sec. 13-19. - Authority to regulate assemblies.

- (a) The chief of police or the county manager or his designee is empowered to regulate, restrict or prohibit any assembly of persons or the movement of persons or vehicles when there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger thereof.
- (b) Any person violating any regulation, restriction or prohibition promulgated by the chief of police or the county manager or his designee pursuant to subsection (a) of this section shall be deemed guilty of a misdemeanor.
- (Code 1980, § 15-1; Code 1995, § 13-31)*

Cross reference—Parades, § 22-19 et seq.

State law reference— Authority of county to delegate such authority, Code of Virginia, § 15.2-925.

Sec. 13-20. - Disorderly conduct.

- (a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:
- (1) In any street, highway, public building or while in or on a public conveyance or public place, engages in conduct having a direct tendency to cause acts of violence by the persons at whom, individually, such conduct is directed;
 - (2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this state or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption prevents or interferes with the orderly conduct of the funeral, memorial service or meeting, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed; or
 - (3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption prevents or interferes with the orderly conduct of the operation or activity, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed.
- (b) However, the conduct prohibited under subsections (a)(1) through (3) of this section shall not be deemed to include the utterance or display of any words or to include conduct made punishable by provisions of the Code of Virginia, title 18.2 (Code of Virginia, § 18.2-1 et seq.), other than Code of Virginia, § 18.2-415.

(c) The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

(Code 1980, § 15-5; Code 1995, § 13-32; Ord. No. 1094, § 1, 3-13-2007)

State law reference— Similar provisions, Code of Virginia, § 18.2-415.

Sec. 13-21. - Providing false information on school registration forms.

Any person who knowingly gives false information on a form used for the purpose of student registration or placement in the county school system, except false statements as to the age, punishable as provided in Code of Virginia, § 22.1-264, shall be guilty of a misdemeanor; provided that such form shall state that the giving of false information on the form is a class 4 misdemeanor.

(Code 1980, § 15-6; Code 1995, § 13-33)

State law reference— Penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-22. - Obstructing free passage.

(a) *Purpose.* The purpose of this section is to ensure the free and safe passage of pedestrians and vehicles within public rights-of-way, buildings and facilities, and within places open to the public, while preserving the rights of citizens to engage in free speech and assembly protected by the First Amendment to the Constitution of the United States.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or any other place open to the public and to engage in any conduct prohibited under this law. *Loiter* also means to collect, gather, congregate, or be a member of a group or a crowd of people who are gathered together in any public place or any other place open to the public and to engage in any conduct prohibited under this law.

Place open to the public means any place open to the public or any place to which the public is invited or may reasonably expect to be invited and in, on, or around any privately-owned place of business, private parking lot or private institution, including shopping centers, malls, places of worship and cemeteries, or any place of amusement and entertainment, whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

Public place means any public street, road, highway, alley, land, sidewalk, crosswalk or other public way, any public resort, place of amusement, park or playground, any public building or grounds appurtenant thereto, school buildings, school grounds, public parking lot, or any other publicly-owned property.

(c) *Prohibited conduct.* It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in the following manner:

- (1) To unreasonably hinder, impede or obstruct the free passage of pedestrians or vehicles.
- (2) To threaten or do physical harm to another person.
- (3) To threaten or do physical harm to public or private property.

(d) *Lawful assembly.* Nothing herein shall be construed to prohibit a lawful assembly, picket, parade or procession.

(Code 1980, § 15-7; Code 1995, § 13-34; Ord. No. 1099, § 1, 3-27-2007)

State law reference – Authority to prohibit loitering, Code of Virginia, § 15.2-926.

Sec. 13-23. - Public intoxication.

(a) It shall be unlawful for any person to be intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature. Any person violating this section shall, upon conviction, be guilty of a class 4 misdemeanor.

(b) A law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to a court-approved detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

(Code 1980, § 15-11; Code 1995, § 13-35; Ord. No. 1062, § 1, 2-24-2004; Ord. No. 1095, § 1, 3-13-2007)

State law reference – Similar provisions, Code of Virginia, § 18.2-388.

Sec. 13-24. - Solicitation.

(a) In this section, the term "prohibited sexual acts" means adultery, fornication or any act in violation of Code of Virginia, § 18.2-361.

(b) Any person who offers money or its equivalent to another for the purpose of engaging in prohibited sexual acts as defined in subsection (a) of this section and thereafter does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a misdemeanor.

(Code 1980, § 15-12; Code 1995, § 13-36)

State law reference – Prostitution, Code of Virginia, § 18.2-346 et seq.

Sec. 13-25. - Unauthorized resale of tickets prohibited.

It shall be unlawful for any person to resell for profit any ticket for admission to any sporting event, theatrical production, lecture, motion picture, state fair or any other event open to the public for which tickets are ordinarily sold, except in the case of religious, charitable or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such ticket is authorized by the sponsor of the event and the manager or owner of the facility in which the event is being held. Violation of this section shall constitute a class 3 misdemeanor.

(Code 1980, § 15-12.1; Code 1995, § 13-38; Ord. No. 906, § 1, 8-9-1995)

State law reference – Authority to so provide, Code of Virginia, § 15.2-969.

Sec. 13-26. - Trespass after having been forbidden to do so; penalties.

(a) If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place where it may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land,

building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2 – 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or 19.2-152.10, or an ex parte order issued pursuant to Code of Virginia, § 20-103, and, after having been served with such order, he shall be guilty of a class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132 – 18.2-136.

(b) Any owner of real property may, in writing on a form prescribed by the chief of police, designate the county division of police as a "person lawfully in charge thereof" as that term is used in subsection (a) of this section, for the purpose of forbidding another to go or remain upon the lands, buildings or premises of such owner. Such designation shall include a legal address, detailed description of the lands, buildings or premises to which it applies; shall be signed by a person who can demonstrate that he is the owner of the property, or is legally authorized to act for the property owner; shall include a provision holding the county harmless and indemnifying the county for any claims arising from or in connection with the enforcement of this section; and shall be kept on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate.

(c) A property owner's designation of the division of police as a person lawfully in charge of the owner's property becomes effective when the chief of police or his designee delivers in person or mails to the property owner a copy of the property owner's designation which has been signed by the chief of police or his designee. A copy of the designation signed by the chief of police or his designee shall be kept on file as described in subsection (b) of this section. The decision whether to accept any designation is solely within the discretion of the chief of police or his designee, who may base his decision on such factors including, but not limited to, resource levels of the division of police and the proper allocation of resources.

(d) Either the property owner or the chief of police or his designee may rescind or reject the designation of the division of police as a person lawfully in charge of the owner's property totally, partially or temporarily at any time by written notification, which notification shall be kept on file with the property owner's designation as described in subsection (b) of this section.

(e) Such designation of the division of police as a person lawfully in charge of the property shall be limited to the sole purpose of enforcing this section.

(f) In any prosecution under this section, a certified copy of the property owner's designation of the division of police as a person lawfully in charge of the property, along with a certified copy of attestation by the chief of police or his designee that (i) the chief of police or his designee has accepted the designation; (ii) the designation has not been rescinded by the property owner or rejected by the chief of police or his designee; and (iii) the designation is in writing and on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate, shall be admissible in any court in a prosecution under this section as evidence of the facts therein stated, without proof of seal or signature of the person whose name is signed to it.

(Code 1995, § 13-39; Ord. No. 1041, § 1, 2-25-2003)

State law reference – Trespass, Code of Virginia, § 18.2-119; authority to provide for designation of police to enforce trespass violations, Code of Virginia, § 15.2-1717.1.

Secs. 13-27 – 13-55. - Reserved.

ARTICLE III. - WEAPONS

***Cross reference** – Firearms and other dangerous devices prohibited in parks and recreation areas, § 14-41; concealed handgun permits, § 15-51.

***State law reference** – Local control of firearms restricted, Code of Virginia, § 15.2-915 et seq.; shooting

along streets, etc., generally, Code of Virginia, § 18.2-286 et seq.

Sec. 13-56. - Commercial district defined.

As used in this article, the term "commercial district" shall mean any business, office, or office service district as so classified and defined by chapter 24.

(Code 1995, § 13-68; Ord. No. 1081, § 2, 11-8-2005)

Sec. 13-57. - Discharging pneumatic guns.

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

(b) It shall be unlawful for any person to discharge any pneumatic gun from or across any public street, public sidewalk, public alley or public land or public place in the county.

(c) Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

(d) Nothing in this section is designed to prohibit the use of pneumatic guns on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

(e) It shall be unlawful and constitute a class 4 misdemeanor for any person to violate any of the provisions of this section.

(Code 1980, § 15-13; Code 1995, § 13-61)

State law reference— Authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; discharging pneumatic guns across street or road, Code of Virginia, § 18.2-286.

Sec. 13-58. - Discharging weapons near school property.

(a) As used in this section, the term "school property" includes real property owned by, used by or held for any public or private school.

(b) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun or other firearm within 100 yards of school property, or use BB guns, crossbows, spearguns or bows and arrows within 300 feet of school property.

(c) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun, BB gun or other firearm, crossbow, speargun or bow and arrow on school property; except that bows and arrows may be used when part of an organized program under the supervision of an employee of the school or the county.

(d) This section shall not be applicable to law enforcement officials engaged in the discharge of their duties. This section shall not apply in any national or state park or forest, or wildlife management area.

(e) The violation of this section is a class 4 misdemeanor.

(Code 1980, § 15-14.1; Code 1995, § 13-62)

State law reference – Authority to prohibit such discharge of firearm near school, Code of Virginia, § 29.1-527; authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-59. - Discharging firearms.

(a) it shall be unlawful for any person to discharge any firearm from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district. This section shall not apply to any law enforcement officer in the performance of his official duties or to any other person whose such willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety.

(b) This section shall not apply to the killing of deer pursuant to Code of Virginia, § 29.1-529 with firearms. Such exemption shall apply on land of at least five acres that is zoned for agricultural use.

(c) Violation of this section shall constitute a class 4 misdemeanor.

(Code 1980, § 15-14; Code 1995, § 13-63)

State law reference – Authority to regulate discharge of firearms, etc., Code of Virginia, § 15.2-1209; discharging firearms across street or road, Code of Virginia, § 18.2-286.

Sec. 13-60. - Hunting with firearms near primary or secondary highway.

(a) No person shall hunt or attempt to hunt with a firearm any game bird or game animal while such hunting or attempting to hunt is on or within 100 yards of any primary or secondary highway in the county.

(b) For the purpose of this section, the terms "hunt" and "attempt to hunt" shall not include the necessary crossing of such highways for the bona fide purpose of going into or leaving a lawful hunting area.

(c) Violation of this section shall be a class 3 misdemeanor.

(Code 1980, § 15-14.4; Code 1995, § 13-65)

State law reference – Authority to so provide, Code of Virginia, § 29.1-526.

Sec. 13-61. - Shooting arrows from bows.

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

Arrow means a shaft-like projectile intended to be shot from a bow.

Bow includes all compound bows, crossbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows having a peak draw weight of less than ten pounds or that are designed or intended to be used principally as toys.

(b) Except as provided in subsection (c) of this section, it shall be unlawful for any person to shoot an arrow from a bow from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or outdoors upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district.

(c) The following activities shall be permitted:

- (1) The shooting of arrows from bows on school property when part of an organized program under the supervision of an employee of the school or the county. As used in this subsection, the term "school" includes real property owned by, used by, or held for any public or private school.
 - (2) The shooting of arrows from bows in county parks as permitted by section 14-29.
 - (3) The shooting of arrows from bows at archery ranges which meet the requirements of chapter 24.
- (d) The exemption in this subsection does not authorize the shooting of an arrow in or across any road, or within the right-of-way thereof. Subsection (b) of this section does not apply to the killing of deer pursuant to Code of Virginia, § 29.1-529 on land of at least two acres that is zoned for agricultural use.
- (e) Violation of this section shall constitute a class 4 misdemeanor.
(Code 1995, § 13-67; Ord. No. 1081, § 1, 11-8-2005)

State law reference—Shooting arrow across road, Code of Virginia, § 18.2-286; authority to prohibit shooting of arrows in certain locations, Code of Virginia, § 15.2-1209; penalty for class 4 misdemeanor, Code of Virginia, § 15.2-11.

Sec. 13-62. Possession of firearms, ammunition, and components in certain public buildings and facilities.

(a) *Prohibition.* The knowing possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof is prohibited in any:

1. Building, or part thereof, owned or used by the county, or by any authority or local governmental entity created or controlled by the county, for governmental purposes; and
2. Recreation or community center facility operated by the county, or by any authority or local governmental entity created or controlled by the county.

(b) *Permissible security measures.* To implement this section, the director of public safety or his designee may provide for security measures, such as the use of metal detectors and increased use of security personnel, designed to reasonably prevent unauthorized access by a person with any firearms, ammunition, or components or combination thereof to buildings or facilities identified in subsection (a).

(c) *Exceptions.* The prohibition in subsection (a) does not apply to:

1. Sworn law enforcement officers and personnel or retired law enforcement officers to the extent exempted by the federal Law Enforcement Officer's Safety Act of 2004.
2. The personnel and volunteers of museums that display firearms or living history reenactors, performers, actors, or interpreters, who may possess firearms that are not loaded with projectiles when such persons are participating in, or traveling to or from, historical interpretive events or are acting in any play, stage show, or presentation.
3. Private security personnel under contract with the county, or an authority or local governmental entity created or controlled by the county, who may possess firearms, ammunition, components or combinations thereof when acting within the scope of their contract with the county, or the authority or other local governmental entity created or controlled by the county.

4. Military personnel when acting in the scope of their official duties.
5. Firearms, ammunition, components or combinations thereof that are secured out of sight in a locked vehicle that is parked on public property by persons conducting business with the county or authority or local governmental entity, for the reasonable duration of that business.
6. The activities of a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. § 2101 et seq.
7. The activities of any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm.

The activities described in subsections (c)(6) and (c)(7) must follow strict guidelines developed by such institutions for these activities and must be conducted under the supervision of staff officials of such institutions.

(d) *Notice.* Notice of the restrictions imposed by this section will be posted at all entrances to any:

1. Building, or part thereof, owned or used by the county, or by any authority or local governmental entity created or controlled by the county, for governmental purposes; and
2. Recreation or community center facility operated by the county, or by any authority or local governmental entity created or controlled by the county.

(e) *Application to portions of buildings.* In any building or facility identified in subsection (a) that is not owned by the county, or by an authority or local governmental entity created or controlled by the county, the provisions of this section apply only to the part of the building or facility being used for a governmental purpose and only when such building or facility, or part thereof, is being used for a governmental purpose.

(f) *Penalties.* Any person violating this section is guilty of a class 2 misdemeanor, except that a person violating this section with the intent to intimidate or harass any person is guilty of a class 1 misdemeanor. Nothing herein is intended to limit the authority of the court to defer dispositions in the court's discretion under Code of Virginia, § 19.2-298.02.

(g) *Prima facie evidence of knowing violation.* The refusal of any person after having been asked to cease possessing, carrying, or transporting any firearms, ammunition, or components or combination thereof in any location identified in subsection (a) will be prima facie evidence of a knowing violation of this section.

ARTICLE IV. - OBSCENITY AND NUDITY

***Cross reference** – Massage establishments, ch. 12; adult businesses, § 14-181 et seq.

***State law reference** – Obscenity, Code of Virginia, § 18.2-372 et seq.; locality may adopt ordinances paralleling certain statutory provisions, Code of Virginia, § 15.2-926.2.

Sec. 13-84. - 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:

Obscene means that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in the description or representation of such matters, and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

(Code 1980, § 15-15; Code 1995, § 13-91)

Cross reference – Definitions and rules of construction, § 1-2.

State law reference – Similar provisions, Code of Virginia, § 18.2-372.

Sec. 13-85. - Exceptions to article.

Nothing contained in this article shall be construed to apply to:

- (1) The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning, supported by public appropriation.
- (2) The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning, supported by public appropriation.
- (3) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum of fine arts, school or institution of higher learning, supported by public appropriation.

(Code 1980, § 15-25; Code 1995, § 13-93)

State law reference – Similar provisions, Code of Virginia, § 18.2-383.

Sec. 13-86. - Obscene items enumerated.

Obscene items shall include:

- (1) Any obscene book;
- (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, bumper sticker, photograph, film, negative, slide, motion picture or videotape recording;
- (3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds; or
- (4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in a perceivable form.

(Code 1980, § 15-16; Code 1995, § 13-94)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

Sec. 13-87. - Manufacture, sale or distribution of obscene items prohibited.

(a) It shall be unlawful for any person knowingly to:

- (1) Prepare any obscene item for the purposes of sale or distribution;
- (2) Print, copy, manufacture, produce or reproduce any obscene item for purposes of sale or distribution;
- (3) Publish, sell, rent, lend, transport in intrastate commerce or distribute or exhibit any obscene item, or offer to do any of these things; or
- (4) Have in his possession with intent to sell, rent, lend, transport or distribute any obscene item. Possession in public or in a public place of any obscene item shall be deemed prima facie evidence of a violation of this section.

(b) For the purposes of this section, the term "distribute" shall mean to deliver in person, by mail, by messenger or by any other means by which obscene items may pass from one person to another.

(Code 1980, § 15-17; Code 1995, § 13-95)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

Sec. 13-88. - Obscene exhibitions and performances prohibited.

It shall be unlawful for any person knowingly to:

- (1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene, provided that no employee of any person or legal entity operating a theater, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theater or an officer of such entity, and has no financial interest in such theater other than receiving salary and wages; or
- (2) Own, lease or manage any theater, garden, building, structure, room or place and lease, let, lend or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theater, garden, building, structure, room or place.

(Code 1980, § 15-18; Code 1995, § 13-96)

State law reference—Similar provisions, Code of Virginia, § 18.2-375.

Sec. 13-89. - Distribution of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in section 13-86, or of any obscene performance or exhibition proscribed in section 13-88, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard.

(Code 1980, § 15-19; Code 1995, § 13-97)

State law reference—Similar provisions, Code of Virginia, § 18.2-376.

Sec. 13-90. - Posting obscene material; posting of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing or picture which is obscene, or which advertises or promotes any obscene item proscribed in section 13-86, or any obscene exhibition or performance proscribed in section 13-88, or knowingly to permit such placard, writing or picture to be displayed on property belonging to or controlled by him.

(Code 1980, § 15-20; Code 1995, § 13-98)

State law reference— Similar provisions, Code of Virginia, § 18.2-377.

Sec. 13-91. - Coercing acceptance of obscene articles or publications.

It shall be unlawful for any person, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, to require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications, or by reason of the return thereof.

(Code 1980, § 15-21; Code 1995, § 13-99)

State law reference— Similar provisions, Code of Virginia, § 18.2-378.

Sec. 13-92. - Employing or permitting minor to assist in offense.

It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this article.

(Code 1980, § 15-22; Code 1995, § 13-100)

State law reference— Similar provisions, Code of Virginia, § 18.2-379.

Sec. 13-93. - Production of obscene photographs or motion pictures.

A person shall be guilty of a class 3 misdemeanor if the person knowingly:

- (1) Photographs himself or any other person for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or
- (2) Models, poses, acts or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

(Code 1980, § 15-24; Code 1995, § 13-102)

State law reference— Similar provisions, Code of Virginia, § 18.2-382.

Sec. 13-94. - Showing previews of certain motion pictures.

It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion

picture to see the complete motion picture from which the trailer or preview is taken.

(Code 1980, § 15-28; Code 1995, § 13-105)

State law reference— Similar provisions, Code of Virginia, § 18.2-386.

Sec. 13-95. - Indecent exposure.

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(Code 1980, § 15-29; Code 1995, § 13-106)

State law reference— Similar provisions, Code of Virginia, § 18.2-387.

Sec. 13-96. - Public nudity.

(a) As used in this section, the term "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering, or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering.

(b) Every person who knowingly, voluntarily and intentionally appears in public or in a public place or in a place open to the public or open to public view in a state of nudity, or employs, encourages or procures another person so to appear, shall be guilty of a misdemeanor punishable by confinement in jail for not more than six months or a fine of not more than \$500.00, or both.

(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise, such as a hotel, motel, bar, nightclub, restaurant, tavern, or dance hall.

(d) No person shall be in violation of this section for breast feeding a child in any public place or any place where others are present.

(Code 1980, § 15-33; Code 1995, § 13-107; Ord. No. 1025, § 1, 3-12-2002)

Editor's note —

This section survived constitutional challenge in *Boyd v. County of Henrico*, 42 Va. App. 495, 592 S.E.2d 768 (2004).

State law reference— Indecent exposure, Code of Virginia, § 18.2-387.

Sec. 13-97. - Unlawful acts relating to juveniles.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to

them in this subsection, except where the context clearly indicates a different meaning:

- (1) *Juvenile* means a person less than 18 years of age.
 - (2) *Nudity* means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.
 - (3) *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is female, breast.
 - (4) *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
 - (5) *Sadomasochistic abuse* means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 - (6) *Harmful to juveniles* means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:
 - a. Predominantly appeals to the prurient, shameful or morbid interest;
 - b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles; and
 - c. Is utterly without redeeming social importance for juveniles.
 - (7) *Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - a. The character and content of any material described in this section which is reasonably susceptible of examination by the defendant; and
 - b. The age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability under this section if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.
 - (8) *Video or computer game* means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.
- (b)
- (1) It shall be unlawful for any person knowingly to sell, rent or loan to a juvenile, or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:
 - a. Any book, picture, photography, drawing, sculpture, video, motion picture film, CD-ROM, DVD-ROM similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles;
 - b. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (b)(1)a. of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.
 - (2) However, if a person uses services of an Internet service provider or an electronic mail service provider in committing acts prohibited under this subsection, such Internet service provider or electronic mail service provider shall not be held responsible for violating this subsection.
- (c) It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass to or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other

presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(d) It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection (b) of this section or subsection (c) of this section, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(e) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (b) or (c) of this section, or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(f) No person shall sell, rent, or loan any item described in subsection (b)(1)a or (b)(1)b of this section to any individual who does not demonstrate his age in accordance with the provisions of Code of Virginia, § 18.2-371.2(C).

(Code 1980, §§ 15-31, 15-32; Code 1995, § 13-108; Ord. No. 995, § 1, 11-9-1999)

State law reference – Similar provisions, Code of Virginia, §§ 18.2-390, 18.2-391.

Secs. 13-98 – 13-124. - Reserved.

ARTICLE V. - CURFEW

***State law reference** – Localities may impose curfew on minors between 10:00 p.m. and 6:00 a.m., Code of Virginia, § 15.2-926.

DIVISION 1. - GENERALLY

Secs. 13-125 – 13-146. - Reserved.

DIVISION 2. - MINORS

Sec. 13-147. - Duty of parent or guardian.

(a) *Purpose.* The purpose of this division is to:

- (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the county;
- (2) Promote the safety and well-being of the county's youngest citizens, persons 16 years of age and under, whose inexperience renders them particularly vulnerable to becoming participants in unlawful drug activities, and to being victimized by older perpetrators of crime; and
- (3) Foster and strengthen parental responsibility for children.

(b) *Definitions.* The following words and phrases as used in this chapter shall have the meanings ascribed to them in this section:

Curfew or *curfew hours* refers to the hours of 11:00 p.m. through 6:00 a.m.

Emergency refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

Minor refers to any person 16 years of age and under who has not been emancipated by court order entered pursuant to Code of Virginia, § 16.1-333.

Officer means any police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia and the Code.

Parent refers to:

- (1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
- (2) A person who is the biological or adoptive parent with whom a minor regularly resides;
- (3) A person judicially appointed as a legal guardian of the minor; and/or
- (4) A person 18 years of age or older standing in loco parentis (as indicated by a written authorization in the possession of a minor from an individual listed in subsection (1), (2), or (3) of this definition), for the person to assume the care or physical custody of the child.

Person refers to an individual, not to any association, corporation, or any other legal entity.

Public place refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, parking lots, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shopping centers and stores.

Remain refers to the following actions:

- (1) To linger or stay at or upon a place; or
 - (2) To fail to leave a place when requested to do so by an officer or by the owner, operator, or other person in control of that place.
- (c) *Exceptions to curfew.* It shall be unlawful for a parent of any minor to permit, allow or encourage such minor to remain in any public place in the county during curfew, unless accompanied by the parent of such minor. This section shall not apply to minors who are engaged in the following activities:
- (1) Attending, or going to or returning from without detour or stop, an activity supervised by adults and sponsored by a school, civic, religious or other public organization or agency, or by another similar organization or entity;
 - (2) Going to or returning from an employment activity without detour or stop;
 - (3) Moving about in the event of an emergency; or
 - (4) Exercising First Amendment or other rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(Code 1980, § 15-2; Code 1995, § 13-151; Ord. No. 1096, § 1, 3-13-2007)

State law reference – Authority to adopt, Code of Virginia, § 15.2-926.

Sec. 13-148. - Duty of managers of public places.

It shall be unlawful for the proprietor, manager or other person having charge or control of any public place, except a theater, opera house or motion picture show, provided there is conspicuously posted at all times at the box office or place for the purchase of tickets of admission and at the place of entrance thereto a notice containing substantially the provisions of section 13-149, to permit, allow or encourage any minor to remain in or around such place during curfew unless accompanied by a parent.

(Code 1980, § 15-3; Code 1995, § 13-152; Ord. No. 1096, § 2, 3-13-2007)

Sec. 13-149. - Duty of minors.

It shall be unlawful for any minor to remain in any public place in the county during curfew hours, except as provided in section 13-147, unless accompanied by a parent.

(Code 1980, § 15-4; Code 1995, § 13-153; Ord. No. 1096, § 3, 3-13-2007)