

CHARTER AND ORDINANCES

of

THE TOWN OF IRON GATE, VIRGINIA

Adopted by the General Assembly of Virginia
and
the Town Council of Iron Gate, Virginia

Maintained by
the Town Clerk, Wendy Biggs, under the direction of
the Honorable Mayor Charles W. Unroe and
the Town Council of Iron Gate, Virginia

Certified by
the Town Attorney, Jared R. Jenkins, Esq.

Version Current as of June 30, 2017

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(numbering is inconsistent, pending adoption of revised ordinances)

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(numbering is inconsistent, pending adoption of revised ordinances)

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Virginia Charters
Iron Gate, Town of
County of Alleghany

History of incorporation

Incorporation, 1890, c. 143.

Charter, 1896, c. 285.

Charter, 1906, c. 276; repealed 1940, c. 99.

Current charter

Charter, 1940, c. 99.

Amendments to current charter

1970, c. 483 (Ch. III, § 6 [amended subject to referendum; referendum defeated])

1977, c. 405 (Ch. III, §§ 1 (a) [repealed], 6)

1997, c. 533 (Ch. III, § 6)

2006, c. 15 (Ch. III, § 6)

Chapter I.

§ 1. The town corporate.

The inhabitants of the territory comprised within the present limits of the town of Iron Gate, as such limitations are now or may be hereafter altered and established by law, shall constitute and continue a body, politic and corporate, to be known and designated as the town of Iron Gate, and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive and shall have, exercise and enjoy all the rights, immunities, powers, and privileges, and be subject to all the duties and obligations now appertaining to and incumbent on said town as a municipal corporation, and the said town of Iron Gate, as such, shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance. (1940, c. 99)

§ 2. The town boundary.

The corporate limits of the town of Iron Gate, Alleghany County, Virginia, shall be, as follows:

Beginning at a point in the middle of Jackson River near the old stage road ford; thence proceeding along a line bearing south forty-two degrees fifty minutes west, passing above tannery pump house twenty-eight (28) feet and crossing railroad and route 220, a distance of six hundred fifty (650) feet to an iron monument four and one-half (4 1/2) feet north of a large white oak tree; thence south fifty-four degrees thirty-two minutes west eight hundred (800) feet to an iron stake on top of the hill; thence south nine degrees fifty minutes west one thousand three hundred eight and one-half (1308 1/2) feet with center line of Park Avenue to Showalter line passing an iron stake at a road intersection at three hundred eighty-nine and one-half (389 1/2) feet and an iron stake measured thirty (30) feet from the northwest eave corner of the present town pump house; thence north eighty degree east one hundred sixty (160) feet with the Showalter line and the north line of block fifty (50); thence from the corner of block fifty (50) south fifteen degrees ten minutes east one thousand six hundred eighty-five (1685) feet to an iron stake in the side of a hollow, passing the corner of block sixty-two (62) and with the south line of block seventy-three (73) to the intersection with the Botetourt

County line; thence with the said Botetourt County line south eighty degrees fifty-five minutes east a distance of two thousand nine hundred eighty (2980) feet and passing near the corner of block one hundred nine (109), crossing route 220 and the Chesapeake & Ohio Railway right-of-way to a point in the middle of Jackson River, passing a large white oak tree in the front of lot eight (8), block one hundred nine (109); thence up and with the several courses of Jackson River five thousand four hundred fifty-two (5452) feet to the point of beginning. (1940, c. 99)

Chapter II.

§ 1. Powers of the Town of Iron Gate.

- (1) To raise annually, by the levy of taxes and assessments in the said town, on all such property, real and personal, as is now or may be subject to taxation by towns by the laws of this Commonwealth, such sums of money as the council thereof shall deem necessary for the purpose of the said town, in such manner as the said council shall deem expedient in accordance with the Constitution of this State and of the United States; provided, however, that it shall impose no taxes on the bonds of the said town.
- (2) To impose special or local assessments for local improvements and to force payment thereof, subject to such limitations prescribed by the Constitution and laws as may be in force at the time of the imposition of such special or local assessments.
- (3) To impose a tax not exceeding one dollar per annum on all persons residing in said town above the age of twenty-one years, not exempt from the payment of State capitation tax.
- (4) (a) The town may, in the name of and for the use of the town, contract debts and make and issue, or cause to be made and issued, as evidence thereof, bonds, notes or other obligations, upon the credit of the town, or solely upon the credit of specific property owned by the town, or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the town.
 - (b) Pending the issuance and sale of any bonds, notes or other obligations by this act authorized, or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the town to borrow money temporarily and to issue notes or other evidences of indebtedness therefor, and from time to time to renew such temporary loans or to use current funds to be ultimately repaid from the proceeds of the said bonds, notes or other obligations or from the town taxes and revenues, as the case may be.
 - (c) The credit of the town shall not, directly or indirectly, under any devise or pretense whatsoever, be granted to or in aid of any person, firm, association, or corporation.
 - (d) Every ordinance authorizing the issuance of bonds shall specify the purpose or purposes for which they are to be issued, the aggregate amount of the bonds, the term for which they shall be issued, and the maximum rate of interest to be paid thereon. Any such ordinance may be amended by ordinance at any time before the bonds to be affected by such amendment have been sold; provided, however, if there shall be omitted from this act any provision essential to the valid authorization, sale, execution and issuance of any of the bonds of said town, the provisions of general law with reference to similar bonds shall supply said omission.
 - (e) Any bonds issued by the town under this act shall be signed by the mayor and attested by

the clerk under the seal of the town, and shall be made payable in the office of the town treasurer or such other place in or out of the State as the council may provide in the ordinance authorizing the issuance of the particular bonds. Such bonds may be advertised by the mayor and sold by the town treasurer, as may be provided in such ordinance, under supervision of the mayor and clerk, and the sale reported to and approved by the council, and the proceeds from said sale shall be paid to the town treasurer.

(5) To expend the money of the town for all lawful purposes.

(6) To acquire by purchase, gift, devise, condemnation or otherwise property, real or personal, or any estate therein within or without the town, for any of the purposes of the town; and to hold, improve, sell, lease, mortgage, pledge, or otherwise dispose of the same or any part thereof, including any property now owned by the town.

(7) To own, operate and maintain water works and to acquire in any lawful manner in any county of the State, such water, lands, property rights, and riparian rights as the council of the said town may deem necessary for the purpose of providing an adequate water supply to the said town and of piping and conducting the same; to lay, erect and maintain all necessary mains and service lines, either within or without the corporate limits of the said town for the distribution of water to its customers and consumers, both within and without the corporate limits of the said town and to charge and collect water rents thereof; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all land comprised within the limits of the water shed tributary to any such water supply wherever such lands may be located in this State; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply, and any and all acts likely to impair the purity thereof; and to carry out the powers herein granted, the said town may exercise within the State all powers of eminent domain provided by the laws of this State.

(8) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to make reasonable charges therefor; to acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; to contract or regulate the collection and disposal thereof and to require and regulate the collection and disposal thereof.

(9) To inspect, test measure and weigh any commodity or commodities or articles of consumption for use within the town; and to establish, regulate, license, and inspect weights, meters, measures and scales.

(10) To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals, and other similar shows or fairs, or prohibit the holding of the same, or any of them, within the town or within one mile thereof.

(11) May require every owner of motor vehicles residing in the said town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the said town, or such other person as may be designated by the council of the said town, to issue said license, and to require the said

owner to pay an annual license fee therefor to be fixed by the council; provided that the said license fee shall not exceed the amount charged by the State on the said machine.

(12) To construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, sewage disposal plants, jails, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town; and to acquire by condemnation or otherwise, all lands, riparian and other rights, and easements necessary for such improvements, or any of them; either within or without the town, and to construct, maintain or aid therein, roads, and bridges to any property owned by the said town and situate beyond the corporate limits thereof, and to acquire land necessary for the aforesaid by condemnation or otherwise.

(13) To establish, impose and enforce the collection of water and sewage rates, and rates and charges for public utilities, or other services, products, or conveniences, operated, rented or furnished by the town; and to assess, or cause to be assessed, after reasonable notice to the owner or owners, water and sewage rates and charges directly against the owner or owners of the buildings or against the proper tenant or tenants; and in event such rates and charges shall be assessed against a tenant then the council may by ordinance, require of such tenant a deposit of such reasonable amount as it may by such ordinance prescribe before furnishing such service to such tenant.

(14) To charge and to collect fees for permits to use public facilities and for public services and privileges. The said town shall have the power and right to charge a different rate for any service rendered or convenience furnished to citizens without the corporate limits from the rates charged for similar service to citizens within the corporate limits.

(15) To compel the abatement and removal of all nuisances within the town or upon property owned by the town beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town, to be kept clean and sanitary and free from stagnant water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate, or prevent slaughter houses or other noisome or offensive business within the said town, the keeping of hogs or other animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which they shall be kept and constructed; to regulate the location, construction, operation, and maintenance of billboards, signs, advertising, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, aesthetic, safety, convenience and welfare of the inhabitants of the town, and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary, and free from all weeds, filth, unsightly deposits, ice and snow.

(16) To extinguish and prevent fires, and to establish, regulate and control a fire department or division, to regulate the size, height, materials and construction of buildings, fences, walls, retaining walls and other structures hereafter erected in such manner as the public safety and conveniences may require; to remove or require to be removed or reconstructed any building, structure or addition thereto which by reason of dilapidation, defect of structure, or other causes

may have become dangerous to life or property, or which may be erected contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to, enlarged, or repaired and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof materials; and may enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments or amusements.

(17) To direct the location of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene oil or other like materials; to regulate the exhibition of fireworks, the discharge of firearms, and the making of bonfires in the streets and yards.

(18) To authorize and regulate the erection of party walls and fences, and to prescribe how the cost thereof shall be borne by coterminous owners.

(19) To provide for regular and safe construction of houses in the town for the future, and to provide a building code for the town, to provide setback lines on the streets beyond which no building may be constructed, to require the standard of all dwelling houses be maintained in residential section in keeping with the majority of residences therein, and to require the standard of all business houses be maintained in business sections in keeping with the majority of the business houses therein.

(20) To provide for the care, support and maintenance of children and of sick, aged, insane or poor persons and paupers.

(21) To prevent fowls and animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

(22) To prevent the riding or driving of horses or other animals at an improper speed; to prevent the flying of kites, throwing of stones, or engaging in any sort of employment in the public streets which is dangerous or annoying to passersby, and to prohibit and punish the abuse of animals.

(23) To provide in or near the town, lands to be used as burial places for the dead; to improve and care for the same and the approaches thereto, and to charge for and regulate the use of the ground therein; to cooperate with any nonprofit corporation in the improvement and care of burial places and the approaches thereto; and to provide for the perpetual upkeep and care of any plot or burial lot therein, the town is authorized to take and receive sums of money by gift, bequest, or otherwise to be kept invested, and the income thereof used in and about the perpetual upkeep and care of the said lot or plot, for which the said donation, gift, or bequest shall have been made.

(24) To prevent any person having no visible means of support, paupers, and persons who may be dangerous to the peace and safety of the town, from coming to said town from without the same; and also to expel therefrom any such person who has been in said town less than twelve months.

(25) To restrain and punish drunkards, vagrants and street beggars, to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to

prevent and punish lewd, indecent and disorderly exhibitions in said town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year.

(26) To make and enforce ordinances, insofar as permitted by the general laws of this State, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol by distillation, fermentation or otherwise.

(27) To prohibit and punish for mischievous, wanton, or malicious damage to school and public property, as well as private property.

(28) To prohibit from, and punish minors for, frequenting, playing in or loitering in any public poolroom, billiard parlor, or bowling alley, and to punish any proprietor or agent thereof for permitting same.

(29) To offer and pay rewards for the apprehension and conviction of criminals.

(30) To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon conviction of such violation.

(31) Insofar as not prohibited by general law, to pass and enforce all by-laws, rules, regulations and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens or their property and to do such other things and pass such other laws as may be necessary or proper to carry into full effect, all powers, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court, or officers thereof, or which may be necessarily incident to a municipal corporation

(32) To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the town, or its inhabitants.

(33) To prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provision of this charter, not exceeding five hundred dollars or twelve months' imprisonment in jail, or both.

(34) To own, operate and maintain electric light works, either within or without the corporate limits of the town and to supply electricity whether the same be generated or purchased by said town, to its customers and consumers both without and within the corporate limits of the said town, at such price and upon such terms as it may prescribe, and to that end it may contract and purchase electricity from the owners thereof upon such terms as it may deem expedient.

(35) To exercise the power of eminent domain within this State with respect to lands and improvements thereon, machinery and equipment for any lawful purpose of the said town.

(36) Except when prohibited by general law, the town may levy a tax or a license on any person, firm or corporation pursuing or conducting any trade, business, profession, occupation, employment or calling whatsoever within the boundaries of the town, whether a license may be required therefor by the State or not, and may provide penalties for any violation thereof.

(37) A lien shall exist on all real estate within the corporate limits for taxes, levies and assessments in favor of the town, together with all penalties and interest due thereon, assessed thereon from the commencement of the year for which the same were assessed and the procedure for collecting the said taxes, for selling real estate for town taxes and for the redemption of real estate sold for town taxes shall be the same as provided in the general law of the State to the same extent as if the provisions of said general law were herein set out at length. The said town and its treasurer shall have the benefit of all other and additional remedies for the collection of town taxes which are now or hereafter may be granted or permitted under the general law.

(38) All goods and chattels wheresoever found may be distrained and sold for taxes and licenses assessed and due thereon.

(39) The enumeration of specific powers, privileges, and authority in this charter shall not be deemed exclusive, but in addition to the powers and privileges herein mentioned, implied or appropriated, the said town shall have and may exercise, all other powers, which are or may hereafter be, possessed, or enjoyed, by any towns under the Constitution and laws of the Commonwealth of Virginia, or not denied by the same, as fully and completely as if herein set out at length. (1940, c. 99)

Chapter III.

§ 1. Administration and government.

(a) (1940, c. 99; repealed 1977, c. 405)

(b) The administration and government of the town of Iron Gate shall be vested in one body to be called the council of the town of Iron Gate, which shall consist of seven (7) members, six (6) of whom shall be known as councilmen and one to be known as mayor, all of whom shall be residents and qualified voters of the said town. The council may create, appoint, or elect such departments, bodies, boards, and other officers, or assessors or attorneys as are hereinafter provided for, or as are permitted, or required by law to be appointed by the council, or as may be deemed necessary or proper, and may fix their compensation and define their duties.

(c) At the regular municipal election to be held in the town in 1978 there shall be elected three councilmen for a period of four years and a mayor and three councilmen for a period of two years. All councilmen thereafter shall serve four-year terms. At each municipal election in 1980 and each two years thereafter there shall be elected a mayor and three councilmen. The three councilmen elected in 1978 that receive the highest number of votes shall serve four-year terms and the remaining three councilmen shall serve two-year terms. The terms of office shall begin on the first day of July next succeeding their election, each of whom shall serve until his successor shall have been elected and qualified. (1940, c. 99; 1977, c. 405)

§ 2. The mayor.

(a) The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter and by general law, and such as may be imposed by the council consistent with his office. He shall be recognized as the official head of the town for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for military purposes. In time of public danger or emergency, he shall maintain order and enforce

the law. Such course of action shall be subject to review by the council.

The mayor shall have no right to vote in the council except that in every case of a tie vote of the council, the mayor shall be entitled to vote and his vote in case of a tie only shall have the same weight and effect as the vote of a councilman. (1940, c. 99)

§ 3. The council.

(a) The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office, or removal of the members of said body or any of them. Vacancies in the council or any office therein shall be filled within thirty days after such vacancy occurs for the unexpired term by a majority vote of the remaining members, except where otherwise inconsistent with the provisions of this charter.

(b) The council shall, by ordinance, fix the time for their stated meetings. Special meetings shall be called by the clerk of the council upon the request of the mayor, or any three members of the council; no business shall be transacted at a special meeting but that for which it shall be called, unless the council be unanimous. The meetings of the council shall be open to the public, except when the public welfare shall require executive sessions.

(c) If any member of the said council shall be voluntarily absent from three regular meetings of the council consecutively, his seat may be deemed vacant by resolution of the council and thereupon his unexpired term shall be filled according to the provisions of this act. (1940, c. 99)

§ 4. Town clerk.

The town clerk shall be appointed by the council, and shall attend the meetings of the council and shall keep permanent records of its proceedings; he shall be custodian of the town seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same; he shall keep all papers, codes, documents, and records pertaining to the town, the custody of which is not otherwise provided for in this charter; he shall give notice to all parties, presenting petitions, or communications to the council of the final action of the council on such communications or petitions; he shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts or agreements; he shall publish such reports and ordinances as the council is required to publish, and such other records and ordinances as it may direct; he shall upon final passage transmit to the proper departments or officials copies of all ordinances or resolutions of the council relating in any way to such departments or to the duties of such officials, and he shall perform such other acts and duties as the council may, from time to time, allow or require. (1940, c. 99)

§ 5. Town treasurer.

(a) The town treasurer shall be elected by the town council for a term of office not exceeding the term of the council by whom he is elected, and shall, before entering upon the duties of his office, give bond with sufficient surety to be approved by the council, in a penalty of such amount as may be fixed by the council from time to time, payable to the town of Iron Gate, conditioned for the true and faithful performance of the duties of his office. The treasurer shall be responsible for the collection of all taxes, licenses and levies and charges for services furnished by the public utilities of the town.

(b) The town treasurer shall receive all moneys belonging to the town which it is his duty to collect from persons owing the same to the town, or which it is the duty of other officers of the

town to collect and pay over to him, and pay the same out as the ordinances of the town may prescribe; to keep such moneys safely and account therefor; and to pay all drafts or orders made on him in conformity with the ordinances of the town.

(c) The funds of the town shall be deposited by the treasurer in such bank or banks as the council may direct. He shall keep books showing accurately the state of his accounts and the money of the town shall be kept distinct and separate from his own money and he is hereby expressly prohibited from using directly or indirectly the town's money, checks or warrants in his custody and keeping for his own use and benefit, or that of any person or persons whomsoever, and any violation of this provision shall subject him to immediate removal from office.

(d) The books and accounts of the town treasurer and all papers relating to the accounts and transactions of the town, shall be, at all times subject to the inspection of the mayor, the town council, and such other persons as the council may appoint, to examine the same, and all such books and accounts, together with any balance or moneys on hand, shall be transferred by the treasurer to his successor at every new appointment, or delivered up as the council may at any time require.

(e) The town treasurer shall, when required by the council, render an account to the council showing the state of the treasury and the balance of money on hand. He shall also, if required so to do by the council, accompany such account with a statement of all money received by him and on what account, with a list of all checks paid by him during the month then closed, and shall furnish such other information, accounts and statements as the town council may direct.

(f) The treasurer shall perform such additional duties as may be required of him by the council not inconsistent with the laws of the State.

(g) The town treasurer shall receive for his services such compensation, if any, as the council may deem proper. (1940, c. 99)

§ 6. Chief of police.

The town council may, by a majority vote, appoint a chief of police. The chief of police shall qualify by taking the oath prescribed by the Code of Virginia and give bond in such amount as the council may require. He shall be vested with powers of a conservator of the peace, and shall have the same powers and discharge the same duties as a constable within the corporate limits of the town and to a distance of one mile beyond the same, and shall perform such other duties as may be from time to time prescribed by the council. (1940, c. 99; 1977, c. 405; 1997, c. 533; 2006, c. 15)

Chapter IV. General Provisions.

§ 1. All contracts and obligations heretofore or hereafter made by the council of the town of Iron Gate, while in office, not inconsistent with this charter, or the constitution, or the general laws of this State shall be, and are hereby declared to be valid and legal. (1940, c. 99)

§ 2. The present bonded indebtedness of the town of Iron Gate in the principal amount of fifteen thousand five hundred dollars (\$15,500.00), represented by bonds dated December 31, 1936, issued for the establishment of a water supply system for the town is hereby ratified, confirmed and approved, and the town of Iron Gate is authorized to refinance or refund said bonded indebtedness by the issuance of new bonds of the town of Iron Gate, in the principal amount of

fifteen thousand five hundred dollars (\$15,500.00), by bonds numbered consecutively from one (1) to sixteen (16), bonds numbered one (1) to fifteen (15) of which shall be in the principal amount of one thousand dollars (\$1,000.00) each, and bond number sixteen (16) to be in the amount of five hundred dollars (\$500.00), with bond number one (1) maturing on the thirty-first day of December, 1941, and the remaining bonds maturing annually and consecutively, in their order, on the thirty-first day of December, in each year thereafter, with bond number sixteen (16) in the amount of five hundred dollars (\$500.00) maturing on the thirty-first day of December, in 1956, which bonds shall bear interest at the rate of four and one-half per centum from their dates, and shall contain such other provisions as to the council of the town of Iron Gate may seem proper; however, the town of Iron Gate shall have authority to issue its bonds for this purpose, in the total principal amount of fifteen thousand five hundred dollars (\$15,500.00), in other denominations and with other maturity dates than as herein prescribed, provided all of the bonds issued hereunder mature within twenty (20) years from the date that this act shall become effective and shall contain such other rate of interest or provision or provisions and terms as to the town council may seem proper and expedient. (1940, c. 99)

§ 3. All ordinances now in force in the town of Iron Gate, not inconsistent with this charter shall be and remain in force until altered, amended or repealed by the council of the said town. (1940, c. 99)

§ 4. If any clause, sentence, paragraph, or part of this act, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, said judgment shall not effect, impair or invalidate the remainder of the said act, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered. (1940, c. 99)

§ 5. This act may for all purposes be referred to or cited as the Iron Gate charter of 1940. (1940, c. 99)

§ 6. All acts or parts of acts in conflict with this charter, insofar as they affect the provisions of this charter, and all former charters and amendments thereto for the town of Iron Gate, Virginia, are hereby repealed. (1940, c. 99)

§ 7. An emergency existing, this act shall be in force from its passage. (1940, c. 99)

**TOWN OF IRON GATE
P. O. BOX 199
IRON GATE, VA 24448
Telephone No. (540) 862-0770**

ORDINANCE NO. 9-2011-A

**THIS ORDINANCE IS ADOPTED CHANGING ALL TOWN
ELECTIONS BEGINNING THE YEAR OF 2012
SHALL BE HELD ON THE NOVEMBER
GENERAL ELECTION DATE**

BE IT ORDAINED by the council of the Town of Iron Gate, Virginia that this ordinance be adopted in pursuant to Section 24.2-222.1 and 15.2-2204 Code of Virginia, 1950, as amended.

NOW THEREFORE BE IT ORDAINED that all elections for Council and Mayor beginning with 2012 shall be held on the November General Election date.

**ADOPTED BY AFFIRMATIVE VOTES OF THE COUNCIL OF THE TOWN OF
IRON GATE, AS EVIDENCED BY THE FOLLOWING RECORDED VOTES
DATED SEPTEMBER 29, 2011.**

	<u>VOTE</u>
Councilman Freddie E. Brackenridge	Yes
Councilman Joseph A. Crawford	Yes
Councilman Richard B. Erskine	Yes
Vice-Mayor Robert W. Daniel, Sr.	Yes
Councilwoman Jennifer O. Tyree	Yes
Councilwoman Karen P. Patterson	Absent



Alan P. Williams, Sr., Mayor

ATTEST:



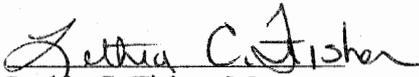
Joyce N. Aldridge, Clerk

AMENDMENT TO TOWN ORDINANCE SECTION 222

SECTION 281:

BE IT ORDAINED, beginning January 1, 1997 the date of the Iron Gate Town Council Meeting shall be on the last Thursday of every month at 7:00 P.M. The date of the regular work session shall be on the third Monday of each month.

This ordinance is in compliance with the administration and government requirement of the Town Charter which is located on page 146. Ordinance adopted on August 22, 1996.



Lethia C. Fisher, Mayor
Town of Iron Gate

CHAPTER II - BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSES TAX

ARTICLE I - GENERAL

Section 2.1 - Overriding Conflicting Ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current Ordinances or resolutions enacted by the Town Council of Iron Gate, if any of the following provisions conflict with those laws, Ordinances, or resolutions, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions, and callings, and upon the persons, firms, and corporations engaged therein within the Town of Iron Gate.

Section 2.2 - Definitions.

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

“Affiliated group” means:

- (1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:
 - a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and
 - b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in subsection (1) of this definition:
 1. The term “stock” does not include nonvoting stock which is limited and preferred as to dividends;
 2. The term “corporation subject to inclusion” means any corporation within the affiliated group irrespective of the state or country of its incorporation; and
 3. The term “receipts” includes gross receipts and gross income.
- (2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a non-stock corporation, the term "stock," as used in subsection (2) of this definition, refers to the non-stock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements in subsection (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Assessor or Assessing official" means the Town Council of Iron Gate.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715, *Code of Virginia*, as amended. Every person beginning a business, profession, trade or occupation which is subject to a license tax under the provisions of this article shall estimate the amount of the gross receipts he will receive between the date of beginning business and the end of the then-current license year, and the license tax for the current year shall be computed on such estimate. Whenever a license tax is computed upon estimated gross receipts, such estimate shall be subject to adjustment by the Treasurer at the end of the tax year to reflect actual gross receipts, and he shall give credit for any over-payment on the license tax payable the following year.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. The term "business" implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a

trade or business.

“Contractor”

(1) The term “contractor” means any person:

- a. Accepting or offering to accept any orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material.
- b. Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition.
- c. Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way.
- d. Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material.
- e. Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power.
- f. Engaging in the business of plumbing and steamfitting.
- g. Accepting or offering to accept contracts for fumigation or disinfecting to prevent the spread of disease or for the eradication or extermination of rats, mice, termites, vermin, or insects or bugs of any kind.
- h. Accepting or offering to accept orders or contracts for moving any building, or for drilling, boring or digging a well or for the installation, maintenance, or repair of neon signs.

(2) The term “contractor” includes persons who subdivide and improve real estate, and speculative builders who build houses or other buildings with the intention to offer the subdivided lots or completed buildings for sale. A person who installs water or sewer systems or roads on his own land with the intent to offer the land for sale is a contractor regardless of whether the land is subdivided.

(3) The term “contractor” does not include a person who acts as his own prime contractor to build or improve a building which he intends to occupy as his residence, office or place of

business.

“Definite place of business” means an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person’s residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

“Entity” means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership or limited liability partnership duly organized under the laws of the Commonwealth or another state.

“Financial services” means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities or other investments.

“Fuel sale” or “fuel sales” means retail sales of alternative fuel, blended fuel, diesel fuel, gasohol or gasoline, as such terms are defined in § 58.1-2201, *Code of Virginia*, as amended.

“Gas retailer” means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201, *Code of Virginia*, as amended.

“Gross receipts” means the whole , entire, total receipts , without deduction.

“Independent registered representative” means an independent contractor registered with the United States Securities and Exchange Commission.

“License year” means the calendar year for which a license is issued for the privilege of engaging in business.

“Personal services” shall mean rendering for compensation any repair, personal, business, or other service not specifically classified as “financial, real estate, or professional service” under this Ordinance, unless exempted from local license tax by Title 58.1 of the *Code of Virginia*.

“Professional services” means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the business, professional and occupational license (BPOL) guidelines promulgated pursuant to § 58.1-3701, *Code of Virginia*, as amended.

The state department of taxation shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the

affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term “profession” implies attainments in professional knowledge and distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

“Purchases” means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term “purchases” also includes the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

“Real estate services” means services with respect to the purchase, sale, lease, rental or appraisal of real property. For purposes of this definition, a real estate agent who is licensed with the state real estate board through a real estate broker is not deemed to be engaged in a real estate service in his own right, provided that the real estate broker has included such agent’s gross receipts in the basis for calculating the real estate broker’s license tax.

“Retail merchant” means a person who sells goods, wares, and merchandise for any purpose other than resale, but not including sales at wholesale to institutional, commercial, and industrial users. In addition, the term “retail merchant” includes every person who is engaged in a short-term rental business.

“Security broker” means a “broker,” as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

“Security dealer” means a “dealer,” as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

“Services” shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

“Town” shall mean the Town of Iron Gate.

“Wholesale merchant” means a person who sells to other persons for the purpose of resale only, or to commercial, industrial or institutional users.

State Law reference — Definitions, § 58.1-3700.1, *Code of Virginia*, as amended.

Secs. 2.3—2.19 – Reserved.

ARTICLE II - LICENSES

Section 2-20 - License requirement.

(a) Every person engaged in a business or profession in the Town shall apply for a license for each such business or profession if:

(1) The person has a definite place of business in the Town;

(2) There is no definite place of business anywhere and the person resides in the Town;
or

(3) There is no definite place of business in the Town, but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, or contractor subject to § 58.1-3715, *Code of Virginia*, as amended, or public service corporation.

(b) A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is subject to licensure at the location and has satisfied any requirements of state and Town law;

(2) All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses at the highest rate;
and

(3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and professions and their gross receipts.

(c) All businesses are subject to licensure unless specifically exempt by state or Town law.

State Law reference— Local license taxes uniform provisions authorized, § 58.1-3703.1(A)(1), *Code of Virginia*, as amended.

Section 2-21 - License application due dates and penalties.

(a) *Due date.*

(1) Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the assessing official.

(2) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1.

(b) *Extension of time.* The assessing official may grant an extension of time in which to file an application

for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the approximate tax, the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of the portion paid after the due date.

(c) *Penalty.*

(1) *Generally.* A penalty of ten percent (10%) of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the Treasurer or other collecting official may impose a ten percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or, if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

(2) *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:

“Acted responsibly” means that:

- a. The taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and
- b. The taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

“Events beyond the taxpayer’s control” includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer’s reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer’s business when he provided the erroneous information.

(d) *Interest.*

- (1) Interest shall be charged on the late payment of the tax from the due date until the date paid

without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded, together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any business, professional and occupational license (BPOL) tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under § 58.1-3916, *Code of Virginia*, as amended.

(2) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment; provided, the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

State Law reference— Similar provisions, § 58.1-3702.1(A)(2), *Code of Virginia*, as amended.

Section 2-22 - Application and issuance generally.

All persons wishing to be issued a license shall make application to the Town Treasurer, who will furnish the necessary forms. The Treasurer shall compute the amount of license tax and shall issue the license after payment is made to the Treasurer.

Section 2-23 - Contents of application.

Every applicant for a license to conduct any business, profession, trade or occupation under the provisions of this article shall furnish the Treasurer, in writing, with his correct name and trade name, his correct residence address, the nature of the business, profession, trade or occupation to be pursued, the place where it is to be pursued, and a record of gross receipts, verified by oath, for the past year, as well as such other information as may be required by the Treasurer.

Section 2-24 - Assessment, records and reports of the Treasurer.

It shall be the duty of the Treasurer to assess all licenses properly, to keep a book in which shall be classified all the branches of business upon which a license is imposed, and show the amount of assessment on each license, the person assessed, and the period for which such license was issued, and report the same to the Town Council.

Section 2-25 - Display of license.

Every person required to obtain a license under the provisions of this article shall keep the form issued in evidence thereof as prescribed by the Treasurer in a convenient and conspicuous place, and whenever required to do so shall exhibit the same to any authorized enforcement officer of the Town.

Section 2-26 - Effect of closing business.

(a) If a person who has paid a license tax based on gross receipts permanently ceases to engage in business in the Town, he shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis so that he is taxed only for that fraction of the year during which the business was operated within the Town. The operation of a business for any portion of a month shall be considered a full month for proration purposes. The effective date of the closing or sale of the business shall be deemed to be the last day the licensee engaged in business.

(b) No person shall be entitled to a refund of license fees nor of license taxes which are not based on gross receipts or gross purchases.

Section 2-27 - Assessment of tax on basis of estimated gross receipts.

(a) Whenever any person begins a business, trade, profession or occupation on or after January 1 of the license year, so much of the license tax imposed by this article as is based on gross receipts shall be measured by the applicant's estimate of gross receipts that will be made and received from the commencement of the business, trade, profession or occupation to the end of the license year.

(b) Whenever the license tax is so assessed on the basis of estimated gross receipts, every erroneous estimate thereof shall be subject to correction and the Treasurer shall assess such person with any additional licensee tax found to be due after the close of the license year or credit the amount of any excess payment to the licensee.

Section 2-28 - Recordkeeping and audits.

Every person who is assessable with a license tax or fee shall keep sufficient records and other information to enable the Treasurer to verify the correctness of the tax paid for the licensee years' assessable and to enable the Treasurer to determine what is the correct amount of tax or fee that was assessable for each of those years. All such records and other information shall be open to inspection and examination by the finance director. The Treasurer shall provide the licensee with the option to conduct the audit in the licensee's office, if the records or other information are maintained there. In the event the records and other information are maintained outside the Town, copies of the appropriate records and other information shall be sent by the licensee to the office of the Treasurer upon demand.

State Law reference— Similar provisions, § 58.1-3703.1 (A)(9), *Code of Virginia*, as amended.

Section 2-29 - Administrative appeals to the assessing official.

(a) *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:

“Amount in dispute”, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

“Appealable event” means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official’s:

- (1) Examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment;
- (2) Determination regarding the rate or classification applicable to the licensable business;
- (3) Assessment of a local license tax when no return has been filed by the taxpayer; or
- (4) Denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

“Frivolous” means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is:

- (1) Not well grounded in fact;
- (2) Not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law;
- (3) Interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund or to create needless cost from the litigation; or
- (4) Otherwise frivolous.

“Jeopardized by delay” means a finding, based upon specific facts, that a taxpayer desires to:

- (1) Depart quickly from the Town;
- (2) Remove his property therefrom;
- (3) Conceal himself or his property therein; or
- (4) Do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(b) *Filing and contents of administrative appeal.* Any person assessed with a local license tax as a result of an appealable event may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the

date of the appealable event, whichever is later, with the Treasurer or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer, if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed *prima facie* correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

(c) *Notice of right of appeal and procedures.* Every assessment made by the assessing official pursuant to an appealable event shall include, or be accompanied by, a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal and the deadline for filing the appeal.

(d) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the Treasurer or other assessing official, unless the finance director or other official responsible for the collection of such tax:

- (1) Determines that collection would be jeopardized by delay;
- (2) Is advised by the Treasurer or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or
- (3) Is advised by the Treasurer or other assessing official that the appeal is frivolous.

Interest shall accrue in accordance with the provisions of section 2-21(d), but no further penalty shall be imposed while collection action is suspended.

(e) *Procedure in event of non-decision.* Any taxpayer whose administrative appeal to the finance director, or other assessing official pursuant to the provisions of this section, has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the Treasurer or other assessing official, elect to treat the appeal as denied and appeal the assessment to the Town Council in accordance with the provisions of section 2-30. The Town Council shall not consider an appeal filed pursuant to the provisions of this section if he finds that the absence of a final determination on the part of the finance director or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

State Law reference— Similar provisions, § 58.1-3703.1(A)(5), *Code of Virginia*, as amended.

Section 2-30 - Administrative appeal to the Town Council.

(a) *Appeal.* Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the Treasurer or other assessing official pursuant to section 2-29, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the Town Council within ninety (90) days of the date of the determination by the Treasurer or other assessing official. The appeal shall be in such form as the Town Council may prescribe and the taxpayer shall serve a copy of the appeal upon the Treasurer or other assessing official. The Town Council shall permit the Treasurer or other assessing official to participate in the proceedings, and shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application, pursuant to § 58.1-1821, *Code of Virginia*, as amended, and the Town Council may issue an order correcting such assessment, pursuant to § 58.1-1822, *Code of Virginia*, as amended.

(b) *Suspension of collection activity during appeal.*

(1) On receipt of a notice of intent to file an appeal to the Town Council under subsection (a) of this section, the assessing official shall further suspend collection activity until a final determination is issued by the Town Council, unless the assessor collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the Town Council, unless the Treasurer or other official responsible for the collection of such tax:

- a. Determines that collection would be jeopardized by delay as defined in section 2-29(a);
- b. Is advised by the Treasurer or other assessing official, or the Town Council; or that the taxpayer has not responded to a request for relevant information after a reasonable time;
or
- c. Is advised by the Treasurer or other assessing official that the appeal is frivolous as defined in section 2-29(a).

(2) Interest shall accrue in accordance with the provisions of section 2-21(d), but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (a) of this section is filed and served on the necessary parties within thirty (30) days of the service of notice of intent to file such appeal.

(c) *Implementation of determination of Town Council.* Promptly upon receipt of the final determination of the Town Council with respect to an appeal pursuant to subsection (a) of this section, the Treasurer or other assessing official shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Town Council's determination and shall provide that information to the taxpayer and to the Treasurer, or other official responsible for collection in accordance with the provisions of this subsection.

(1) If the determination of the Town Council sets forth a specific amount of tax due, the Treasurer or other assessing official shall certify the amount to the Treasurer or other official

responsible for collection, and the Treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within thirty (30) days of the date of the determination of the Town Council.

(2) If the determination of the Town Council sets forth a specific amount of refund due, the Treasurer or other assessing official shall certify the amount to the Treasurer or other official responsible for collection, and the Treasurer, or other official responsible for collection, shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within thirty (30) days of the date of the determination of the Town Council.

(3) If the determination of the Town Council does not set forth a specific amount of tax due, or otherwise requires the Treasurer or other assessing official to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Treasurer or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within sixty (60) days of the date of the determination of the Town Council, or within sixty (60) days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Town Council, whichever is later. The Treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within thirty (30) days of the date of the new assessment.

(4) If the determination of the Town Council does not set forth a specific amount of refund due, or otherwise requires the Treasurer or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of the Town to make a refund of taxes previously paid, the Treasurer or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within sixty (60) days of the date of the determination of the Town Council, or within sixty (60) days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Town Council, whichever is later. The Treasurer or other official responsible for collection shall issue a refund to the taxpayer, together with interest accrued, within thirty (30) days of the date of the new assessment.

State Law reference— Similar provisions, § 58.1-3703 .1(A)(6), *Code of Virginia*, as amended.

Section 2-31 - Judicial review of determination of Town Council.

(a) *Judicial review.* Following the issuance of a final determination of the Town Council pursuant to section 2-30, the taxpayer or Treasurer or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to § 58.1-3984, *Code of Virginia*, as amended. In any such proceeding for judicial review of a determination of the Town Council, the burden shall be on the party challenging the determination of the Town Council, or any part thereof, to show that the ruling of the Town Council is erroneous with respect to the part challenged. Neither the Town Council nor the department of taxation shall be made a party to an application to correct an assessment merely because the Town Council has ruled on it.

(b) Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to § 58.1-3984, Code of Virginia, as amended, of a determination of the Town Council pursuant to section 2-30, and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the Treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that:

- a. The taxpayer's application for judicial review is frivolous, as defined in section 2-29(a);
- b. Collection would be jeopardized by delay, as defined in section 2-29(a); or
- c. Suspension of collection would cause substantial economic hardship to the locality.

For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review, pursuant to § 58.1-3984, *Code of Virginia*, as amended, is filed and served on the necessary parties within thirty (30) days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subsection (b) shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action, pursuant to § 58.1-3984, *Code of Virginia*, as amended, without prior exhaustion of the appeals provided by sections 2-29 and 2-30.

(c) Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review

(1) Payment of any refund determined to be due pursuant to the determination of the Town Council of an appeal, pursuant to section 2-30, shall be suspended if the locality assessing the tax serves upon the taxpayer, within sixty (60) days of the date of the determination of

the Town Council, a notice of intent to file an application for judicial review of the Town Council's determination, pursuant to § 58.1-3984, *Code of Virginia*, as amended, and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in section 2-29.

(2) No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review, pursuant to § 58.1-3984, *Code of Virginia*, as amended, is filed and served on the necessary parties within thirty (30) days of the service of the notice of intent to file such application.

(d) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of section 2-21 (d), but no further penalty shall be imposed while collection action is suspended.

State Law reference— Similar provisions, § 58.1-3703.1(A)(7), *Code of Virginia*, as amended.

Section 2-32 - Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law, a court decision or the guidelines issued by the state department of taxation upon which the ruling was based; or the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

State Law reference— Similar provisions, § 58.1-3703.1(A)(8), *Code of Virginia*, as amended.

Section 2-33 - Situs of gross receipts.

(a) *General rule.* Whenever the tax or fee imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within the Town. In the case of activities conducted outside of a definite place of business, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) *Contractor.* The gross receipts of a contractor shall be attributed to the definite place of

business where his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715, Code of Virginia, as amended;

(2) *Retailer or wholesaler.* The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesale merchant or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares, and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) *Business renting tangible personal property.* The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and

(4) *Performance of services.* The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If a person has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The Treasurer may enter into agreements with any other political subdivision of the commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has resulted, or is likely to result, in taxes on more than 100 percent of its gross receipts from all locations in the

affected jurisdictions, the Treasurer shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

If an agreement cannot be reached, either the Treasurer or the taxpayer may request an advisory opinion from the department of taxation pursuant to § 58.1-3701, *Code of Virginia*, as amended; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, *Code of Virginia*, as amended, when a taxpayer has demonstrated to a court that two or more political subdivisions of the commonwealth have assessed taxes on gross receipts that may create a double assessment within the meaning of §58.1-3986, *Code of Virginia*, as amended, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

State Law reference— Similar provisions, § 58.1-3703.1(A)(3), *Code of Virginia*, as amended.

Section 2-34 - Limitations and extensions.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903, *Code of Virginia*, as amended, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six (6) preceding license years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, *Code of Virginia*, as amended, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to section 2-29(b) or (d), or two years after the final decision in a court application pursuant to § 58.1-3984, *Code of Virginia*, as amended, or a similar law for which collection has been stayed, whichever is later.

State Law reference— Similar provisions, § 58.1-3703.1(A)(4), *Code of Virginia*, as amended.

Section 2-35 - Payment of tax by corporation, partnership or employer.

When a business, trade or occupation taxed under this article is conducted by a corporation or partnership, the license tax shall be imposed upon the corporation or partnership and paid by it, and, when so paid and also when paid by an individual employing persons who otherwise would be liable to a license, it shall be deemed to discharge the license tax liability of the officers and partners of such corporation or firm and of such persons employed by any employer who otherwise would be liable to such tax, insofar as the licensed business is concerned.

Section 2-36 - Term of license.

All Town licenses shall, unless otherwise provided, be for the calendar year, beginning on January 1 and ending on December 31 of each year.

Section 2-37 - Soliciting.

Every person who engages in door-to-door solicitation within the Town shall be required to register with the office of the Town Clerk and provide the following:

- (1) A valid Town business license or an exemption as determined by the Treasurer.
- (2) An identification list of all persons soliciting which shall include name, address, date of birth, and social security number.
- (3) Each solicitor shall be required to wear and display a photo identification badge.

Section 2-38 - Enforcement.

It shall be the duty of the police force of the Town, as then constituted, to enforce the provisions of this article and other laws and ordinances relating to licenses.

Section 2-39 - Penalty for violation of article; report and prosecution of violations.

It shall be unlawful for any person to conduct a business or to engage in a profession, trade or occupation before procuring a license as required under the provisions of this article. It shall also be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this article. Any person who is convicted for failing to procure a license as required, or convicted of a violation of any of the provisions of this article shall, except where some other penalty is specifically provided, be guilty of a Class 3 misdemeanor. Each day any person shall continue to violate the provisions of this article after the due date or any license tax prescribed in this article shall constitute a separate offense. It shall be the duty of the Treasurer to report to the Mayor every case of default or violation as soon as it comes to the knowledge of either of them, and it shall be the duty of the Mayor, upon receipt of such report, to cause such violator to be prosecuted.

State Law reference— License required, § 58.1-3700, *Code of Virginia*, as amended.

Section 2-40 - Certain permits required from police force, as then constituted.

Every person subject to licensure for acting as a nightclub operator or operating an adult bookstore, massage parlor, adult motion picture theater or adult mini motion pictures shall first apply to the chief of police for a permit and shall produce to the chief of police evidence of good character of the individual, or the members of the firm or the principal officers of the corporation. The chief of police shall make a reasonable investigation of the character of the individual, or of each member of the firm or of each principal officer of the corporation, and if he is satisfied that the individual, the members of the firm or the principal officers of the corporation are fit to lawfully pursue such activity, he shall issue the permit. The form of the application for the permit and the form of the permit itself shall be prepared and furnished by the chief of police. The chief of police may revoke any permit issued under

this article if he is satisfied that the permit holder no longer meets the standards of this section.

Secs. 2-41—2-70 - Reserved.

ARTICLE III - TAX SCHEDULES

Section 2-71 - Merchants.

(a) *Wholesalers.* Every person engaged in the business of a wholesale merchant shall pay an annual license tax for the privilege of conducting such business in the Town. The license tax shall be in an amount equal to \$0.23 on each \$100.00 of the gross amount of goods purchased for resale during the previous calendar year. For the purpose of this section, the term “wholesale merchant” means any merchant who sells to other persons for resale only. The minimum license tax shall be as set forth in section 2-83.

(b) *Retail merchants.* Every person engaged in the business of retail sales shall pay an annual license tax based upon the gross receipts from such business for the preceding calendar year at the rate of \$0.19 per \$100.00 of gross receipts. The minimum license tax shall be as set forth in section 2-83. Whenever any person is engaged in conducting retail sales at more than one location, a separate license tax shall be required for each location. The form and procedure for reporting gross receipts and ascertaining the tax to be paid by each person conducting retail sales shall be the same as set forth in the appropriate sections of Title 58.1 of the *Code of Virginia*.

State Law reference— Wholesale merchants, § 58.1-3716, *Code of Virginia*, as amended.

Section 2-72 - Itinerant merchants and peddlers.

(a) There is imposed upon every itinerant merchant selling new furniture, television, radios, space heaters or other appliances, audio, video or other electronic equipment, computer equipment or hardware, rugs, clothing or footwear, watches or jewelry, tools or hardware, automotive parts or equipment, paintings or art objects, a minimum flat tax of \$475.00 per year. Such tax is not subject to proration and must be paid in full prior to the issuance of the license.

(b) There is imposed upon every itinerant merchant selling merchandise or wares other than that set forth in subsection (a) of this section, to include, but not limited to, family supplies of a perishable nature (produce, fruits, perishable food, vegetables, household, lawn and garden flowers and plants) a minimum flat rate of \$285.00 per year. Such tax is not subject to proration and must be paid in full prior to the issuance of the license.

(c) There is imposed upon every peddler selling new furniture, television, radios, space heaters, or other appliances, audio, video or other electronic equipment, computer equipment or hardware, rugs, clothing or footwear, watches or jewelry, tools or hardware, automotive parts or equipment, paintings or art objects, a minimum flat tax of \$475.00 per year. Such tax is not subject to proration and must be paid in full prior to the issuance of the license.

(d) Unless exempt as provided in § 58.1-3719(A)(4), *Code of Virginia*, as amended, there is

imposed upon every peddler selling merchandise or wares other than that set forth in subsection (c) of this section, to include, but not be limited to, family supplies of a perishable nature (produce, fruits, perishable food, vegetables, household, lawn and garden flowers and plants) a minimum flat tax rate of \$285.00 per year. Such tax is not subject to proration and must be paid in full prior to the issuance of the license.

(e) There is imposed upon every other peddler or itinerant merchant selling merchandise or wares in the Town a flat minimum tax of \$28.50 per year. Such tax is not subject to proration and must be paid in full prior to the issuance of the license.

State Law reference— Authority of local governing bodies to impose license tax, § 58.1-3703, *Code of Virginia*, as amended; tax on peddlers, itinerant merchants, §§ 58.1-3717-58.1-3719.1, *Code of Virginia*, as amended.; limitation on tax, § 58.1-3719, *Code of Virginia*, as amended.

Section 2-73 - Financial services.

Every person engaged in a financial service shall pay a license tax of \$0.58 per \$100.00 of base year gross receipts.

State Law reference— Financial services tax rate, § 58.1-3706(A)(3), *Code of Virginia*, as amended.

Section 2-74 - Real estate services.

Every person engaged in a real estate service shall pay a license tax of \$0.58 per \$100.00 of base year gross receipts.

State Law reference— Real estate services tax rate, § 58.1-3706(A)(3), *Code of Virginia*, as amended.

Section 2-75 - Professional services.

Every person engaged in a professional service shall pay a license tax of \$0.58 per \$100.00 of base year gross receipts .

State Law reference- Professional services tax rate, § 58.1-3706(A)(3), *Code of Virginia*, as amended.

Section 2-76 - Contractors and contracting.

Every person conducting or engaging in the contracting business, who has his principal business office in the Town, shall pay an annual license tax based upon the gross receipts for all orders or contracts accepted during the preceding year at the rate of \$0.15 per \$100.00 of gross receipts.

State Law reference— Contractor's license and bond, §§ 58.1-3706, 58.1-3714 *et seq.*, *Code of Virginia*, as amended.

Section 2-77 - Repair, personal, business services and all other businesses and occupations not specifically listed.

Every person operating, conducting or engaging in any of the trades, businesses or occupations not mentioned in this division shall pay an annual license tax based upon the gross receipts from the trade, business or occupation during the preceding year at the rate of \$0.34 per \$100.00 of gross receipts. The minimum license tax shall be set forth in section 2-83.

State Law reference— Repair, personal and business services tax rate, § 58.1-3706(A)(4), *Code of Virginia*, as amended.

Section 2-78 - Persons engaged in more than one business.

(a) If the conduct of a business, profession, trade or occupation involves operations which fall within two or more of the categories set forth in this division, the licensee is subject to the rate applicable for each operation. If a licensee finds himself in this situation, he may elect one of the following alternatives:

- (1) The licensee may choose to be taxed at the different rates applicable to each of his separate operations; or
- (2) The licensee may choose to be taxed at a single rate. If the licensee chooses to be taxed at a single rate, the rate to be applied will be the highest rate applicable to the licensee's various operations.

(b) The licensee must make this election each year when he applies for his business license.

Section 2-79 - Public service companies (telephone, telegraph, heat, light and power companies).

(a) Every telephone and telegraph company that conducts business in the Town shall pay an annual license tax for the privilege of conducting its business in the Town at the rate of one-half of one percent of the gross receipts of such business accruing to the company from such business operation in the Town. The charges for long-distance telephone calls shall not be considered receipts of business in the Town.

(b) Every power company that conducts business in the Town shall pay an annual license tax for the privilege of conducting its business in the Town at the rate of one-half of one percent of the gross receipts of such business accruing to the company from such business operation in the Town.

(c) Every company that sells a natural product or power or energy source used for the production of heat in the Town shall pay an annual license tax for the privilege of conducting such business in the Town at the rate of one-half of one percent of the gross receipts of such business accruing to the company from such business operation in the Town.

(d) The license tax levied in subsections (a) through (c) of this section shall apply to gross receipts from sales to the ultimate consumer.

(e) The license tax authorized by this section shall not be imposed on pipeline distribution companies, as defined in § 58.1-2600, *Code of Virginia*, as amended, or on gas suppliers, gas utilities or electric suppliers, as defined in § 58.1-400.2, *Code of Virginia*, as amended.

State Law reference— Public service companies, § 58.1-3731, *Code of Virginia*, as amended.

Section 2-80 - Miscellaneous licenses.

Every person engaged in any business, trade or occupation listed in this section shall pay the license tax set forth in this section. Such tax shall be paid annually, unless otherwise specified.

(1) *Carnivals*. To operate a carnival in the Town, the license tax shall be \$250.00 per day, or \$1,000.00 per week of six days, to be paid in advance. Any person who shall operate a carnival in the Town before first obtaining a license to do so shall be punished by a fine of not less than \$50.00 nor more than \$500.00 in addition to the license tax, which also shall be required to be paid. The term “carnival” shall be construed to mean one or more shows, exhibitions or concessions operated under one management or name, but nothing in this subsection shall apply to circuses as provided for in subsection (a)(2) of this section.

(2) *Circuses and menageries*. On every circus, show or menagerie within the Town, for every 24 hours or part of the same, including one street parade, the license tax shall be \$150.00, where the admission for adults is over \$0.75, and where the admission for adults is \$0.75 or less, the license tax shall be \$75.00 for the first day, and \$50.00 for each subsequent day or any part thereof.

(3) *Circus street parade*. For each circus street parade when the show is exhibited outside of the corporate limits, the license tax shall be \$25.00.

(4) *Clairvoyant, phrenologist, fortuneteller or astrologer*. The tax for a clairvoyant, phrenologist, fortuneteller or astrologer shall be \$300.00.

(5) *Pawnbrokers*. The tax for pawnbrokers shall be \$400.00.

(6) *Tombstone and monument solicitors*. The tax for tombstone and monument solicitors shall be \$50.00. This subsection shall apply to every person other than a merchant or contractor regularly licensed to do business in the Town, who solicits orders in the Town for tombstones or monuments.

State Law reference— Tax on carnivals, circuses, speedways, penalty, § 58.1-3728, *Code of Virginia*, as amended; tax on fortunetellers, clairvoyants, etc., § 58.1-3726, *Code of Virginia*, as amended.

Section 2-81 - Coin machine operator’s license.

There is hereby imposed an annual license tax of \$28.50 on every operator of coin-operated or coin-in-the-slot type of vending machines. As used in this section, the term “operator” means any person, firm or corporation selling, leasing, renting or otherwise furnishing or providing a coin-operated

machine or device operated on the coin-in-the-slot principle; provided, however, that the term “operator” shall not include a person, firm or corporation owning less than three coin machines and operating such machines on property owned or leased by such person, firm or corporation.

State Law reference— Amusement, coin-operated machines, § 58.1-3720, *Code of Virginia*, as amended; exceptions, § 58.1-3721, *Code of Virginia*, as amended.

Section 2-82 - Tax on businesses, occupations, etc., not specifically mentioned.

On every business, occupation or employment for which a tax is not specified or provided for in this division, the tax shall be the maximum amount authorized by state law.

Section 2-83 - Minimum tax.

Unless otherwise specified or provided, the minimum license tax on all businesses and professions measured by gross receipts shall be \$28.50, which amount shall be absorbed in the total tax when such tax exceeds \$28.50 at the applicable rate.

Secs. 2-84—2-100 - Reserved.

State Law reference— Sale of ice cream and similar products, state preemption, § 3.1-562.4, *Code of Virginia*, as amended; certification to operate or maintain boiler or pressure vessel, § 15.2-910, *Code of Virginia*, as amended; sanitation in tattoo parlors, § 15.2-912, *Code of Virginia*, as amended; door-to-door vendors, § 15.2-913, *Code of Virginia*, as amended; funding the construction or repair of certain rental property, § 15.2-958, *Code of Virginia*, as amended; regulation of child care services and facilities in certain counties and cities, § 15.2-914, *Code of Virginia*, as amended; municipal franchises, § 15.2-2100 *et seq.*, *Code of Virginia*, as amended; dangerous, offensive or unhealthful business in municipality, § 15.2-1113, *Code of Virginia*, as amended; regulation of auctions, peddlers, weights and measures, § 15.2-1114, *Code of Virginia*, as amended; licensing of bail bondsmen, § 19.2-185 *et seq.*, *Code of Virginia*, as amended; regulation of precious metals dealers, § 54.1-4111, *Code of Virginia*, as amended; records of firearms dealers, § 54.1-4200 *et seq.*, *Code of Virginia*, as amended; local license taxes, § 58.1-3700 *et seq.*, *Code of Virginia*, as amended; specific tax levy and license requirements, §§ 58.1-3714-58.1-3719.1, *Code of Virginia*, as amended.

CHAPTER III - TAXATION

ARTICLE I - IN GENERAL

Section 3.1 – Overriding Conflicting Ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current Ordinances or resolutions enacted by the Town Council of Iron Gate, if any of the following provisions conflict with those laws, Ordinances, or resolutions, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions, and callings, and upon the persons, firms, and corporations engaged therein within the Town of Iron Gate.

Secs. 3-2—3-18 - Reserved.

ARTICLE II - ADMINISTRATION

Section 3-19 - General duties of Treasurer relative to taxation

- (a) The duties of the Treasurer, with reference to the assessment of taxes for the Town, except so far as modified by this Code and other ordinances of the Town, shall be the same as those prescribed by law with reference to the assessment of taxes for the state, except that he or she shall assess all property of any and every kind taxable by the Town, including all licenses.
- (b) The Treasurer, upon going out of office, shall deliver to the successor all books and papers pertaining to the office which belong to the Town. Should the Treasurer fail to do so, the Treasurer shall be guilty of a Class 1 misdemeanor, and his or her successor shall proceed to have such books or papers as are necessary duplicated at the expense of the Town.
- (c) The assessment of real and personal property in the Town, for the purpose of municipal taxation, shall be the same as the assessment for the purpose of county taxation, but where the Treasurer for the Town knows of property that has been omitted by the commissioner of revenue of the county from his or her books, the Treasurer of the Town shall advise the commissioner of the revenue of the county thereof, and thereafter, such omitted property, real or personal, shall be assessed for taxation in the manner provided by general law.

State Law reference— Duty to deliver official books and papers, § 58.1-3104, *Code of Virginia*, as amended.

Section 3-20. - Penalties and interest on unpaid taxes.

Any person failing to pay any Town taxes or levies made on any real or personal property by the due date shall incur additional penalties and interest. Real estate shall be due and payable in two equal installments, the first on December 5 and the second on June 5. A penalty for late payments of ten percent shall be imposed on any installment which is paid late. In addition to the penalty provision set forth, interest at the rate of ten percent per annum shall begin on July 1 following the June 5 due date.

The interest is to be collected upon the principal and penalties of all such taxes then remaining unpaid. Personal property and machinery and tools taxes shall be due and payable on December 5. A penalty for late payment of ten percent shall be imposed on any unpaid balance. In addition to the penalty provision set forth, interest at the rate of ten percent per annum shall begin accruing effective January 1. The interest is to be collected upon the principal and penalties of all such taxes then remaining unpaid.

State Law reference— Authorized amounts of penalties and interest, § 58.1-3916, *Code of Virginia*, as amended.

Section 3-21 - Levy, assessment of taxes.

(a) Notwithstanding any other provision of law, special or general, to the contrary, taxes will be levied and imposed on real estate assessable for taxation by the Town on a fiscal year basis of July 1 to June 30.

(b) The rate of any such levy authorized by this section may be changed during the fiscal year. A proposed increase shall be published in a newspaper having general circulation in the Town at least 15 days before the increase is enacted, and the citizens of the Town shall be given an opportunity to appear before, and to be heard by, the Town council on the subject of the proposed increase.

(c) The assessment, whichever made, of all taxable real estate shall become effective for tax purposes on July 1 of each year.

(d) This section shall not operate to change the property assessment year of any public service corporation or company whose property is assessed by the state corporation commission.

State Law reference— Levy of taxes on fiscal-year basis, § 58.1-3010, *Code of Virginia*, as amended.

Section 3-22 - Refunds of local taxes erroneously paid; exoneration from payment of local taxes erroneously assessed.

(a) If the commissioner of the revenue of the county receives an application pursuant to § 58.1-3980, *Code of Virginia*, as amended, which seeks correction of an alleged erroneous assessment, the commissioner of the revenue of the county shall make diligent investigation of the assessment. If, after such investigation, the commissioner of the revenue of the county is satisfied that he has erroneously assessed any applicant with any local taxes, he shall certify to the tax collecting officer the amount erroneously assessed.

(b) If the commissioner of revenue of the county certifies that an amount paid to the Town has been erroneously assessed, if the taxes have not been paid, the applicant shall be exonerated from payment of so much thereof as is erroneous, and if such taxes have been paid, the tax collecting officer or his or her successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

(c) No refund shall be made in any case when application therefor was made more than three years after the last day of the tax year for which such taxes were assessed.

State Law reference— Refunds of local taxes erroneously paid, § 58.1-3990, *Code of Virginia*, as amended.

Secs. 3-23—3-47 - Reserved.

ARTICLE III - TANGIBLE PERSONAL PROPERTY TAX

Section 3-48 - Duty to file tax returns; penalty.

(a) Every taxpayer owning tangible personal property subject to taxation in the Town shall file with the commissioner of the revenue of the county a return listing said tangible personal property by May 1 of each year.

(b) If property subject to taxation is not disclosed by the filing of the required return, a statutory assessment will be made based on the best available information, and taxes will be levied on this amount.

State Law reference— Assessment if return is not filed, § 58.1-3519, *Code of Virginia*, as amended.

Secs. 3-49—3-69 - Reserved.

ARTICLE IV - CIGARETTE TAX

Section 3-70 - 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:

“Carton” means ten packs of cigarettes, each containing twenty (20) cigarettes, or eight packs of cigarettes, each containing twenty-five (25) cigarettes.

“Cigarette”

(1) The term “cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

c. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subsection (1)a of this definition.

(2) The term “cigarette” includes roll-your-own tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition, 0.09 ounces of roll-your-own tobacco shall constitute one individual cigarette.

“Treasurer” means the Treasurer of the Town and any of his or her or her duly authorized deputies and agents.

“Pack” means a package containing either twenty (20) or twenty-five (25) cigarettes.

“Retail dealer” includes every person other than a wholesale dealer who sells or offers for sale any cigarettes and who is properly registered as a retail trade with the commonwealth in accordance with the commonwealth department of taxation business registration application (form R-1).

“Retail sale” or “sale at retail” includes all sales except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

“Stamping agent” has the same meaning as provided in § 3.2-4204, *Code of Virginia*, as amended. For the purposes of provisions relating to roll-your-own tobacco, the term “stamping agent” includes “distributor,” as that term is defined in § 58.1-1021.01, *Code of Virginia*, as amended.

“Stamps” means the stamps by the use of which the tax levied under this article is paid and shall be officially designated as state revenue stamps. The department is hereby authorized to provide for the use of any type of stamp which will effectuate the purposes of this article, including, but not limited to, decalcomania and metering devices.

“Storage” means any keeping or retention in the commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the commonwealth.

“Tax-paid cigarettes” means cigarettes that:

(1) Bear valid state stamps to evidence payment of excise taxes; or

(2) Were purchased outside of the commonwealth and either:

a. Bear a valid tax stamp for the state in which the cigarettes were purchased; or

b. When no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

State Law reference— Similar provisions, § 58.1-1000, *Code of Virginia*, as amended.

Section 3-71 - Levy; rate.

There is hereby levied and imposed by the Town, upon each and every sale of cigarettes, a tax of twenty cents (\$0.20) on each package containing twenty-five (25) or fewer cigarettes, but not to exceed two dollars (\$2.00) per carton. The amount of such tax shall be paid by the seller, if not previously paid, in the manner and at the time provided in this article.

Section 3-72 - Method of payment.

The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp, of the proper denominational or face value, to each and every package of cigarettes sold within the Town, in the manner and at the time provided in this article. Every dealer and every seller in the Town shall have the right to buy such stamps from the Treasurer and to affix the same to packages of cigarettes as provided in this article.

Section 3-73 - Duties of dealers, sellers.

- (a) Every local retail dealer or seller in cigarettes is hereby required, and it shall be his or her duty to purchase such stamps at the office of the Treasurer as shall be necessary to pay the tax levied and imposed by this article, and to affix or cause to be affixed a stamp of the monetary value prescribed by this article to each package of cigarettes prior to offering such package of cigarettes for sale to a purchaser; provided, however, that nothing in this section shall preclude any dealer or seller from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.
- (b) Stamps, or the printed markings of a meter machine, shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.
- (c) Every seller is hereby required to examine each package of cigarettes prior to exposing the same for sale for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon, as provided by this article.
- (d) Should a seller obtain or acquire possession, from any person, any unstamped or improperly stamped cigarettes, such seller shall forthwith, before selling, offering or exposing such cigarettes for sale in the Town, purchase and affix or cause to be affixed to such packages of cigarettes the proper stamps or the markings of a meter machine, covering the tax imposed by this article.

Section 3-74 - Preparation of stamps.

For the purpose of making such stamps available for use, the Treasurer shall prescribe, prepare and sell stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this article. In the sale of such stamps, the Treasurer shall allow a discount of eight percent of the denominational or face value thereof to cover the costs which will be incurred in affixing

the stamps to packages of cigarettes. If the printing by an authorized meter machine is used in lieu of gummed stamps, there shall be allowed a discount of ten percent of the denominational or face value of the imprints of the stamps so printed by the meter machine to cover the costs incurred in printing such imprints.

Section 3-75 - New design of stamps.

The Treasurer may, from time to time, and as often as he or she may deem advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

Section 3-76 - Meter machines.

The Treasurer is authorized to permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of said stamps upon original packages by the use of meter machines in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and to prescribe and enforce the necessary regulations setting forth the method to be employed and the conditions to be observed, in the use of such meter machines. Any Town tax stamp or meter impression required to be used to evidence payment of the tax shall be of the same stamp technology that is used or required by the commonwealth for the state cigarette tax stamp pursuant to § 58.1-1000 *et seq.*, *Code of Virginia*, as amended.

State Law reference— Provisions permitted to be adopted by town, § 58.1-3832, *Code of Virginia*, as amended.

Section 3-77 - Refund for unused stamps and imprints.

Should any person, after acquiring from the Treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use thereof, or should any such stamps become mutilated and unfit for use other than by cancellation as provided in this article, such person shall be entitled to a refund of the denominational or face amount of any such stamps so acquired and not used by him, less eight percent of the denominational or face amount thereof, upon presenting the stamps to the Treasurer and furnishing him with an affidavit showing to his or her satisfaction that the stamps were acquired by such person and have not in any manner been used, and the reason for requesting the refund.

Section 3-78 - Confiscation of cigarettes.

Cigarettes found in quantities of more than six cartons within the Town shall be conclusively presumed for sale or use within the Town and may be seized and confiscated if:

- (1) They are in transit and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part.

(2) They are in transit and are accompanied by a bill of lading or other document indicating:

- a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or district of destination has been paid and the said products bear the tax stamps of that state or district.
- b. A consignee or purchaser in the commonwealth but outside the Town who does not possess a the commonwealth sales and use tax certificate, a commonwealth retail cigarette license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination.

(3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the Town that those cigarettes are temporarily within the Town and will be sent to consignees or purchasers outside the Town in the normal course of business.

State Law reference— Authority to adopt provisions for administration of the tax, § 58.1-3832, *Code of Virginia*, as amended.

Section 3-79 - Authority of Treasurer.

Whenever the Treasurer shall discover cigarettes as described in section 3-78 which are subject to the tax imposed by this article and upon which the tax has not been paid and the tax stamp is not affixed thereon by the printed markings of an authorized meter machine, as required in this article, the Treasurer is hereby authorized and empowered to forthwith seize and take possession of such cigarettes, which shall thereupon be deemed to be forfeited to the Town, and he or she may, within a reasonable time thereafter, after written notice posted at the front door of the Town hall at least five days before the date of sale, or published in some newspaper having general circulation in the Town at least five days before the date of sale, sell such forfeited cigarettes at the time and place designated in such notice, and from the proceeds of such sale shall collect the tax due thereon, together with a penalty of 50 percent thereof, and the costs incurred in such proceedings, and pay the balance, if any, of such proceeds to the person in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any fine provided in this article for the violation of the provisions of this article. All moneys collected under the provisions of this section shall be paid to the Treasurer as other taxes collected under this chapter.

State Law reference— Authority to adopt provisions for administration of the tax, § 58.1-3832, *Code of Virginia*, as amended.

Section 3-80 - Illegal acts.

It shall be unlawful and a violation of this article for any person to:

- (1) Perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or any part thereof; for any dealer or sellers, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon them under the provisions of this article or to fail or refuse to obey any lawful order which the Treasurer may issue under this article.
- (2) Falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed marking of any meter machine, or to procure or cause to be made, forged, altered or counterfeited any such stamps or printed markings of a meter machine, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamps or printed markings of a meter machine.
- (3) Sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes.
- (4) Reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been theretofore paid, have been removed.
- (5) Remove from any package any stamps or the printed markings of a meter machine with intent to use or cause the same to be used after the same have already been used, or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps or printed markings of a meter machine to any person, or to reuse any stamps or printed markings of a meter machine which had theretofore been used for evidence of the payment of any tax prescribed by this article, or, except as to the Treasurer, to sell or offer to sell any stamps or printed markings of a meter machine provided for in this article.

Section 3-81 - Presumption of violation against seller.

If any package of cigarettes is found in the possession of a seller without the proper stamps being affixed thereto or without authorized printed markings of a meter machine thereon, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding forty-eight (48) hours, and that he has not offered the same for sale, the presumption shall be that such package is being kept by such seller in violation of the provisions of this article, and shall subject him to the penalties provided in this article.

Section 3-82 - Keeping of records.

It shall be the duty of every local dealer and seller, and he is hereby so required, to maintain and keep, for a period of three years, such record of cigarettes sold and delivered by him as may be required by the Treasurer and to make all such records available for examination by said Treasurer, or his or her or her duly authorized agent, upon demand, at any and all reasonable times.

State Law reference— Retaining records for three years, § 58.1-1021, *Code of Virginia*, as amended; authority to adopt provisions for administration of the tax, § 58.1-3832, *Code of Virginia*, as amended.

Section 3-83 - Rules and regulations; enforcement.

The Treasurer is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of the aforesaid stamps and to any and all other matters pertaining to the administration and enforcement of the provisions of this article. He or she is hereby further authorized and empowered to examine books, records, invoices, papers, and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller.

State Law reference— Authority to adopt provisions for administration of the tax, § 58.1-3832, *Code of Virginia*, as amended.

Section 3-84 - Tax additional to other imposed taxes.

The tax levied and imposed by this article shall be in addition to all other taxes of every kind levied and imposed by any other ordinance or law.

Section 3-85 - Penalty.

Any person violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. A conviction and punishment under this section shall not relieve any such person from the payment of any tax imposed by this article. Each violation of, or noncompliance with, any of the provisions of this article shall be and constitute a separate offense and shall subject every person convicted thereof to the penalties prescribed in this article.

State Law reference— Authority to adopt provisions for administration of the tax, § 58.1-3832, *Code of Virginia*, as amended.

Secs. 3-86—3-113 - Reserved.

ARTICLE V - UTILITIES TAX

DIVISION 1 - ELECTRICITY AND NATURAL GAS

Section 3-114 - 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:

“CCF” means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

“Commercial” or “industrial consumer” means the owner or tenant of property used for commercial or industrial purposes, including the owner of master metered apartment buildings who, by law, is responsible for payment to the seller or service provider for utility service.

“Consumer” means every person who, individually or through agents, employees, officers,

representatives or permittees, makes a taxable purchase of any utility services within the corporate limits of the Town.

“Gas utility” means a public utility authorized to furnish natural gas service in the commonwealth.

“Kilowatt hours (kWh) delivered” means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in § 56-594, *Code of Virginia*, as amended, the term “kilowatt hours delivered” means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

“Pipeline distribution company” means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

“Residential consumer” means the owner or tenant of private residential property or tenant of an apartment or single room who, by law, is responsible for payment to the seller or service provider for utility service.

“Seller” means every person, firm and public service corporation, including the Town, who sells or furnishes a utility service.

“Service provider” means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company that delivers natural gas to a consumer.

“Used primarily” relates to the larger portion of the use for which electric or natural gas utility service is furnished.

“Utility service” means local telephone service, excluding long-distance messages, electric service or natural gas, furnished in the corporate limits of the Town.

Section 3-115 - Electric utility consumer tax.

(a) *Levied.* In accordance with § 58.1-3814, *Code of Virginia*, as amended, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) *Residential consumers.* Such tax on residential consumers shall be \$1.40 plus the rate of \$0.015094 on each kWh delivered monthly to residential consumers by a service provider not to exceed \$3.00 monthly.

(2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

a. *Commercial consumers.* Such tax on commercial consumers shall be \$2.29 plus the rate of \$0.014401 on each kWh delivered monthly to commercial consumers, not to exceed \$25.00 monthly.

b. *Industrial consumers.* Such tax on industrial consumers shall be \$2.29 plus the rate of \$0.014401 on each kWh delivered monthly to industrial consumers, not to exceed \$25.00 monthly.

(b) *Governmental exemptions.* The United States of America, the commonwealth and the political subdivisions, boards, commissions and authorities thereof, including the Town, are hereby exempted from the payment of the tax imposed and levied by this section with respect to the purchase of electric service used by such governmental agencies.

(c) *Billing, collection and remittance of tax.*

(1) The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to the Treasurer on a monthly basis. The service provider shall pay such taxes to the Treasurer in accordance with §§ 58.1-3814(F) and (G), and 58.1-2901, *Code of Virginia*, as amended. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify the Town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the Treasurer.

(2) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the Treasurer.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this section if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(1) The kWh will be divided by two;

(2) A monthly tax will be calculated using the rates set forth in this section;

(3) The tax determined by subsection (d)(2) of this section shall be multiplied by two;

(4) The tax in subsection (d)(3) of this section may not exceed twice the monthly maximum tax.

State Law reference— Consumer utility tax authorized, § 58.1-3814, *Code of Virginia*, as amended; authority to exempt entities pursuant to Art. X, § 6(a)(2) or Art. X § 6(a)(6) of the Virginia Constitution, § 58.1-3816.2, *Code of Virginia*, as amended.

Section 3-116 - Local natural gas utility consumer tax.

(a) *Levied.* In accordance with § 58.1-3814, *Code of Virginia*, as amended, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities, to include bottled gas, classified by “class of consumers” as such term is defined in § 58.1-3814J, *Code of Virginia*, as amended, as follows:

(1) *Residential consumers.* Such tax on residential consumers of natural gas shall be \$2.45 plus the rate of \$0.18670 on CCF delivered monthly to residential consumers, not to exceed \$3.00 per month.

(2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below:

a. *Commercial consumers.* Such tax on commercial consumers shall be \$4.65 plus the rate of \$0.15566 on each CCF delivered monthly to commercial consumers, not to exceed \$25.00 monthly.

b. *Industrial consumers.* Such tax on industrial consumers shall be \$4.65 plus the rate of \$0.15566 on each CCF delivered monthly to industrial consumers, not to exceed \$25.00 monthly.

(b) *Governmental exemptions.* The United States of America, the commonwealth and the political subdivisions, boards, commissions and authorities thereof, including the Town, are hereby exempted from the payment of the tax imposed and levied by this section with respect to the purchase of gas service used by such governmental agencies.

(c) *Billing, collection and remittance of tax.*

(1) The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to the Treasurer on a monthly basis. The service provider shall pay such taxes to the Treasurer in accordance with §§ 58.1-3814(H) and (I), and 58.1-2901, *Code of Virginia*, as amended. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify the Town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the Treasurer.

(2) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the Treasurer.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the

purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

- (1) The CCF will be divided by two;
- (2) A monthly tax will be calculated using the rates set forth in this section;
- (3) The tax determined by subsection (d)(2) of this section shall be multiplied by two;
- (4) The tax in subsection (d)(3) of this section may not exceed twice the monthly maximum tax.

Section 3-117 - Failure to pay tax; penalty.

(a) Any purchaser or consumer failing, refusing or neglecting to pay any of the taxes imposed and levied by this article and any seller or service provider violating the provisions of this article, and any officer, agent or employee of any seller or service provider violating the provisions of this article, shall be guilty of a Class 4 misdemeanor. Each failure, refusal, neglect or violation and each day's continuance thereof, shall constitute a separate offense.

(b) The names and addresses of any purchaser failing, refusing or neglecting to pay any of the taxes imposed by this article and remaining in default of the payment of such taxes for a period of 30 days shall be reported to the Treasurer.

DIVISION 2 - TELECOMMUNICATIONS

Section 3-118 - 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:

“Affiliated group” shall have the same meaning ascribed to it in subdivision (C)(10) of § 58.1-3703, *Code of Virginia*, as amended, except, for purposes of this article, the word “entity” shall be substituted for the word “corporation” whenever it is used in that section.

“Bad debts” means any portion of a debt related to a sale of local telecommunication services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.

“Consumer” means a person who, individually or through agents, employees, officers, representatives, or permittees, makes a taxable purchase of local Telecommunication services.

“Enhanced services” means services that employ computer processing applications to act on the format, code, or protocol or similar aspects of the information transmitted; provide

additional, different, or restructured information; or involve interactions with stored information.

“Gross charges” means, subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services. However, “gross charges” shall not include the following:

(1) Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer’s bill or invoice.

(2) Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charges or paid for the provision of local telecommunication services on the service provider’s books and records.

(3) Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges.

(4) Charges or amounts paid for special features that are not subject to taxation under § 4251 of the Internal Revenue Code of 1986, as amended.

(5) Charges or amounts paid that are (i) the tax imposed by § 4251 of the Internal Revenue Code of 1986, as amended, or (ii) any other tax or surcharge imposed by statute, ordinance or regulatory authority.

(6) Bad debts.

“Local telecommunication service subject to the exclusions stated in this section”, includes, without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunications services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

“Local telephone service subject to the exclusions stated in this section”, includes any service subject to federal taxation as local telephone service as that term is defined in § 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute.

“Mobile local telecommunication service” means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.

“Mobile service consumer” means a person having a telephone number for mobile local telecommunication service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service

“Mobile service provider” means every person engaged in the business of selling mobile local

telecommunication services to consumers.

“Residential consumer” shall not include any consumer of mobile local telecommunication service.

“Service address” means the location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, service address shall mean the location of the subscriber’s primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer’s primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely to a consumer’s signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer’s primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer’s billing address, service address, or telephone number within the licensed service area.

“Service provider” means every person engaged in the business of selling local telecommunication services to consumers.

“Taxable purchase” means the acquisition of telecommunication services for consumption or use; however, taxable purchase does not include (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges, and charges for use of inter-company facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the providers is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person’s purchases are nontaxable sales for resale.

Section 3-119 - Local Telecommunications Service Consumer Tax.

(a) In accordance with § 58.1-3812, *Code of Virginia*, as amended, effective January 1, 2001, there is hereby imposed and levied a monthly tax at a rate of twenty percent (20%) of the monthly gross charge to a consumer of local telecommunications service which shall not be applicable to any amount so charged in excess of fifteen dollars (\$15.00) per month for a residential consumer.

Notwithstanding the foregoing, the tax is imposed at a rate of ten percent (10%) of the monthly gross charge to a consumer of mobile local telecommunication service and shall not be applicable

to any amount so charged in excess of thirty dollars (\$30.00) per month for each mobile service consumer.

(b) A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the Town. If any consumer refuses to pay the tax, the service provider shall notify the Town. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the Town.

(c) A service provider shall remit monthly to the town the amount of tax billed during the preceding month to consumers with a service address in the town, less any discount allowed under § 58.1-3816.1, *Code of Virginia*, as amended.

Section 3-120 - Exemptions.

(a) An exemption from the foregoing tax is hereby granted to any public safety answering point as defined in § 58.1-3813.1, *Code of Virginia*, as amended, and to any church or religious body entitled to an exemption pursuant to Article 4 (§ 58.1-3650 *et seq.*) of Chapter 36 of Title 58.1, *Code of Virginia*, as amended.

(b) The United States of America, the State of Virginia, and the political subdivisions, boards, commissions, agencies and authorities thereof, and all educational institutions are hereby exempted from the payment of the tax imposed and levied under this article with respect to the purchase of local telecommunication services.

Section 3-121 - Seller's records.

Every service provider shall keep complete records showing all purchases of local telecommunication services, which records shall show the price charged against each consumer with respect to each purchase, the gross charges to each consumer, the date thereof, the date of payment thereof and the amount of tax imposed under this article. Such records shall be kept open for inspection by the duly authorized agent of the town at reasonable times; and the duly authorized agent of the town shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

Section 3-121 - Penalties.

Any consumer failing, refusing or neglecting to pay the tax imposed and levied under this Division, and any officer, agent or employee of any service provider violating the provisions of this Division shall, upon conviction thereof, be punished by a fine of not less than \$25.00 nor more than \$1,000.00, or by imprisonment in jail for not more than sixty (60) days, or by both such fine and imprisonment. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ordinance.

Secs. 3-121—3-176 - Reserved.

ARTICLE VI - TAX ON MEALS IN FOOD ESTABLISHMENTS OR BY CATERERS

Section 3-177 - 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:

“Cater” means the furnishing of food, beverages or both, on the premises of another, for compensation.

“Food” means all food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

“Food establishment” means any place in or from which food or food products are prepared, packaged, sold or distributed in the Town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

“Meal” means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

“Police department” means the Town’s police department or any other law-enforcement agency with jurisdiction in the Town limits.

“Purchaser” means any person who purchases a meal.

“Seller” means any food establishment, caterer or person selling meals, or the person operating such businesses.

Section 3-178 - Levy.

There is hereby imposed and levied by the Town on each person a tax at the rate of four percent (4%) on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. In the computation of this

tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent.

State Law reference— Authority to levy tax, § 58.1-3840, *Code of Virginia*, as amended.

Section 3-179 - Exemptions.

(a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory-prepackaged candy, gum, nuts, and other items of essentially the same nature served for on or off-premises consumption.

(2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.

(3) *Food sold in bulk.* For the purposes of this subsection, the term “bulk sale” means the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream). The term “bulk sale” does not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(4) Alcoholic and nonalcoholic beverages sold in factory-sealed containers.

(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(6) Any food or food product purchased for home consumption as defined in the Federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied by this article, the following items, whether or not purchased for immediate consumption, are excluded from the said definition of food in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory-sealed beverages. This subsection shall not affect provisions set forth in subsections (c)(3), (4) and (5) of this section.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed by this article shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

- (2) Food and beverages sold by day care centers, public or private elementary or secondary schools, or food sold by any college or university to its students or employees.
- (3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth, or the United States.
- (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered person, narcotic addicts or alcoholic, or other extended care facility to patients or residents thereof.
- (5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with an appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
- (6) Food and beverages sold by a nonprofit educational, charitable or benevolent organization, church, or religious body on an occasional basis, not exceeding three times per calendar year, as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.
- (7) Food and beverages sold through vending machines.
- (8) Food and beverages sold on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
- (9) Food and beverages sold by volunteer fire departments and rescue squads on an occasional basis, not exceeding three times per calendar year, as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, or benevolent purposes.
- (10) Food and beverages sold or provided by churches that serve meals for their members as a regular part of their religious observances.
- (11) Food and beverages sold or provided by public or private elementary or secondary schools, or public or private colleges and universities, to their students or employees.
- (12) Food and beverages sold or provided by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

State Law reference— Exemptions, § 58.1-3840, *Code of Virginia*, as amended.

Section 3-180 - Tips, gratuities and services charges.

(a) Where a purchaser provides a tip or gratuity for an employee of a seller and the amount of the tip or gratuity is wholly in the discretion of the purchaser, the tip or gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case that the full amount of the tip or gratuity is turned over to the employee by the seller.

(b) An amount or a percent, whether designated as tip, gratuity or service charge, that is added to the price of a meal by the seller, and is required to be paid by the purchaser, as a part of the selling price of the food and beverages, is subject to the tax imposed by this article, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price.

State Law reference— Exemption for on-premises consumption, § 58.1-3840, *Code of Virginia*, as amended.

Section 3-181 - Payment and collection generally.

In every case, the tax imposed by this article shall be collected by the seller and paid by the person on whom the tax is levied at the time the charge for the meal becomes due and payable, whether payment is to be made in cash or on credit. The seller shall add the tax to the amount charged for the meal and shall pay the taxes collected to the Town as provided in this article. No blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

Section 3-182 - Collections in trust for Town.

All amounts collected as taxes under this article shall be deemed to be held in trust for the Town by the seller collecting them, until remitted to the Town as provided by this article.

Section 3-183 - Reports, remittances, and preservation of records.

Every person required by this article to collect the taxes imposed by this article shall make a report for each calendar month setting forth such information as the Treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Every person making such monthly reports shall keep and preserve such records for a period of three (3) years. The Treasurer or his or her duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof. All such monthly reports shall be delivered to the Treasurer on or before the 20th day of the calendar month following the month being reported and shall be accompanied by a remittance of the amount of tax due for that month, made payable to the Treasurer. The Treasurer shall deposit all taxes received in the Town treasury.

Section 3-184 - Interest and penalty for late remittance or false return.

(a) Any seller who fails or refuses to file any report required by this ordinance or to remit to the Treasurer the tax required to be collected and paid under this ordinance shall be penalized as follows:

(1) The Treasurer shall add interest to such tax, at the rate of ten percent (10%) per annum on all amounts due, which shall accrue until paid in full, together with:

(2) A penalty in the amount of ten percent (10%) if the failure is not more than thirty (30) days, with an additional penalty of ten percent (10%) of the total amount of tax owed along with all penalties for late payments previously levied for each additional thirty (30) days or fraction thereof during which the failure continues;

(3) the total penalty not to exceed twenty-five percent (25%) in the aggregate, with minimum penalty of two dollars (\$2.00).

(b) In the case of a false or fraudulent return with the intent to defraud the Town of any tax due under this ordinance, a penalty of fifty percent (50%) of the tax shall be assessed against the person required to collect such tax, together with interest at the rate of ten percent (10%) per annum shall continue to accrue until paid in full.

Section 3-185 - Procedure when tax not reported or collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the Treasurer shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the Treasurer has procured whatever facts and information may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the Treasurer shall proceed to determine and assess against such person the tax, penalty and interest provided in this article, and shall notify the person, by mail sent to his or her last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten (10) days after the date that such notice is sent.

Section 3-186 - Duty of persons going out of business.

Whenever any person required to collect and remit to the Town any tax imposed by this article shall cease to operate or otherwise dispose of his or her business, the tax shall immediately become due and payable and the person shall immediately make a report and remittance thereof.

Section 3-187 - Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public, in any manner or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

Section 3-188 - Enforcement.

(a) It shall be the duty of the Treasurer to ascertain the name of every person operating a food establishment in the Town liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The Treasurer may have issued a summons for such person, and the summons may be served upon such person by any Town police officer in the manner provided by law. One return of the original summons shall be made to the general district court of the Town.

(b) If the purchaser of any meal refuses to pay the tax imposed by this article, the seller may call upon the police department for assistance; and the investigating officer may, when probable cause exists, issue the purchaser a summons returnable to the general district court as provided by law.

Section 3-189 - Penalty.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer as defined in § 58.1-3906, *Code of Virginia*, as amended, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax, and any penalties and interest, as provided in this article.

Secs. 3-190—3-202 - Reserved.

ARTICLE VII - AD VALOREM TAXES

DIVISION 1 - GENERALLY

Secs. 3-203—3-216 - Reserved.

DIVISION 2 - EXEMPTION FOR ELDERLY AND DISABLED PERSONS

Section 3-217 - Definitions.

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

“Affidavit” means the exemption affidavit.

“Dwelling” means the full-time residence of the person claiming exception.

“Exemption” means exemption from the Town real estate tax according to this division.

“Treasurer” means the Treasurer or any of his or her duly authorized agents.

“Permanently and totally disabled” means unable to engage in any substantial gainful activity because of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person’s life.

“Property” means real property.

“Taxable year” means the calendar year, from July 1 until June 30, for which exemption is claimed.

Section 3-218 - Eligibility.

Real estate tax exemption is provided for qualified property owners who are not less than sixty-five (65) years of age or who are permanently and totally disabled and who are eligible according to this division. Persons who qualify for exemption are deemed to be bearing an extraordinary real estate tax burden to their income and financial worth.

State Law reference— Similar provisions, § 58.1-3218, *Code of Virginia*, as amended.

Section 3-219 - Determination of eligibility for exemption.

The exemption permitted under this division shall be administered by the Treasurer according to this division. The Treasurer is authorized and empowered to make such inquiry of persons seeking exemption, requiring answer under oath, as may be reasonably necessary to determine qualification for exemption as specified by this division. The Treasurer shall require the production of certified tax returns and other appropriate documentation to establish income or financial worth.

State Law reference— Similar provisions, § 58.1-2313, *Code of Virginia*, as amended.

Section 3-220 - General prerequisites to granting.

Under this division, exemption shall be granted to persons subject to the following:

(1) The title of the property for which exemption is claimed is held or partially held on January 1 of the taxable year by the person claiming exemption.

(2) The head of the household occupying the dwelling and owning title or partial title thereto is sixty-five (65) years or older on December 31 of the year immediately preceding the taxable year or is permanently and totally disabled on December 31 of the year immediately preceding the taxable year.

(3) The total combined income during the immediately preceding taxable year, from all sources of the owner of the dwelling living therein and any other persons, except for *bona fide* tenants or *bona fide* paid caregivers of the owner living in the dwelling, does not exceed \$35,000.00; provided, however, that the first \$6,500.00 of income of any person, other than the spouse of the owner, who is living in the dwelling shall not be included in such total. Also, the first \$6,500.00 of income of a disabled owner shall not be included in such total.

(4) The net combined financial worth, including equitable interests, as of December 31 of the immediately preceding taxable year of the owner and of the spouse of the owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated does not exceed \$100,000.00.

(5) There must be no delinquent real estate taxes on the parcel for which exemption is claimed.

Section 3-221 - Application for exemption.

(a) Annually, not later than July 1 and not before March 1 of the taxable year, the person claiming an exemption under this division shall file with the finance department, on forms to be supplied by the Town, an affidavit or written statement setting forth:

(1) The names of the related persons occupying such real estate; and

(2) That the total combined net worth, including equitable interests and the combined income for all sources, of the person specified in § 58.1-3211, *Code of Virginia*, as amended, does not exceed the limits prescribed in this division.

(b) If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board or, if such person is not eligible for certification by any of the agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in § 58.1-3217, *Code of Virginia*, as amended; however, a certification pursuant to 42 U.S.C. § 423(d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in § 58.1-3217, *Code of Virginia*, as amended. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the civil service commission that is relevant to the standards for determining permanent and total disability, as defined in § 58.1-3217, *Code of Virginia*, as amended.

Section 3-222 - Effect of applicant’s residency in hospital, nursing home or similar facility.

The fact that a person who is otherwise qualified for exemption pursuant to this division is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time shall not be construed to mean that the property for which tax exemption is sought does not continue to be the sole dwelling of such person during such extended periods or other residence, so long as such property is not used by or leased to others for consideration.

Section 3-223 - Amount of exemption.

When the person claiming an exemption pursuant to this division meets all requirements set forth and incorporated in this division and does not exceed the income and financial worth limitations contained in this division, the tax exemption permitted shall be as follows:

<u>Total Income (all sources)</u>	<u>Tax Exemption</u>
\$0.00 to \$25,000	100%
\$25,001 to \$30,000	75%
\$30,001 to \$35,000	50%

State Law reference— Nullification upon change in status, § 58.1-3215, *Code of Virginia*, as amended.

Section 3-224 - Effective date.

This division shall be in effect for the real estate tax year beginning July 1, 2017.

Secs. 3-225—3-249 - Reserved.

DIVISION 3 - EXEMPTION OF REAL ESTATE TAXES FOR CERTAIN REHABILITATED OR RENOVATED RESIDENTIAL AND COMMERCIAL REAL ESTATE

Section 3-250 - Definitions.

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

“Base value” means the assessed value of any structure covered by this section prior to the commencement of rehabilitation or renovation work, as determined by the commissioner of revenue upon receipt of an eligible application for rehabilitated or renovated real estate tax exemption and after a physical inspection of the property by an assessor from the commissioner of revenue’s office.

“Owner” means the person or entity in whose name the structure is titled and who is legally obligated to pay real estate taxes assessed against the structure.

“Rehabilitated” or “renovated estate tax exemption” means an amount equal to the increase in assessed value resulting from the substantial rehabilitation or renovation of a structure as

determined by the commissioner of revenue, and this amount only should be applicable to subsequent tax exemption.

“Substantially rehabilitated” or “renovated commercial real estate” means any real estate upon which there is an existing commercial real estate: Any real estate upon which there is an existing commercial structure which is no less than 40 years of age, and which has been so improved as to increase the assessed value of the structure by no less than 50 percent without increasing the total square footage of such structure by more than 15 percent.

“Substantially rehabilitated” or “renovated residential/multifamily (six units or more) real estate” means real estate upon which there is an existing single-family residential or multifamily structure, which is no less than 40 years of age, and which has been so improved as to increase the assessed value of the structure by no less than ten percent without increasing the total square footage of such structure by more than 15 percent. An addition to an existing residential or multifamily structure shall not qualify as substantial rehabilitation or placement unless there is also simultaneous rehabilitation or renovation of the existing structure. In order for an addition to an existing structure to qualify as substantial rehabilitation or renovation, the addition must be for improvements to the living areas of the structure, such as bedrooms, kitchens, bedrooms, and similar facilities. Additions for such things as garages, carports, swimming pools, porches, decks, patios, and similar facilities that are not used as living areas for the structure shall not be eligible for a tax exemption.

“Taxable year”, for the purpose of this section, means the tax year from July 1 through June 30 for which such real estate tax is imposed for the exemption claimed.

Section 3-251 - Authorized.

(a) It is hereby declared to be the purpose of this section to authorize a rehabilitated or renovated real estate tax exemption for substantially rehabilitated or renovated residential, multifamily, or commercial real estate located within the Town. For each property that qualifies, the rehabilitated or renovated real estate exemption shall be effective for a period of five years commencing on July 1 for any work completed during the preceding calendar year at a descending rate over the five-year period as follows:

Year 1:	100%
Year 2:	80%
Year 3:	60%
Year 4:	40%
Year 5:	20%
Year 6:	0%

(b) An increase in assessment occurring after the first year of the exemption shall not result in an increase in the exemption. In no case shall an exemption be permitted if the assessed value falls below the base value in any given year.

Section 3-252 - Usual and customary methods of assessing.

In determining the base value and the increased value resulting from substantial rehabilitation or renovation of residential, multifamily, or commercial real estate, the commissioner of revenue shall employ usual and customary methods of assessing real estate.

Section 3-253 - Eligibility requirements.

- (a) An application to qualify a structure as a substantially rehabilitated or renovated residential, multifamily, or commercial structure must be filed with the commissioner of the revenue's office before the work is started. Applications may be obtained from the county commissioner of the revenue's office.
- (b) Upon receipt of an application for rehabilitated or renovated real estate tax exemption, an assessor from the commissioner of revenue's office shall make a physical inspection of the structure and determine the assessed base value of the structure. If work has been started prior to the first inspection; the base value will include any work started and will reflect the market value of the structure as of the date of the first inspection.
- (c) The application to qualify shall be effective for a period of two years from the date of filing. No extensions of this time period will be granted.
- (d) Upon completion of the rehabilitation or renovation, the owner of the property shall notify the county commissioner of revenue in writing, and as assessor from the commissioner of revenue's office shall physically inspect the property and perform an after-rehabilitation or renovation appraisal to determine if it then qualifies for the rehabilitated or renovated real estate exemption.
- (e) Upon determination that the property has been substantially rehabilitated or renovated pursuant to the terms of this section, the rehabilitated or renovated real estate tax exemption shall become effective for a period as provided in section 3-251.
- (f) Prior to a determination that the property has been substantially rehabilitated or renovated, the owner of the property shall continue to be subject to taxation upon the full value of the property, as otherwise authorized by this Code.
- (g) No improvements made upon vacant land nor total replacement of residential, multifamily, or commercial structures shall be eligible for rehabilitated or renovated real estate tax exemption as provided by this section.
- (h) No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of revenue has verified that the rehabilitation or renovation indicated on the application has been completed.
- (i) Multifamily residential structures after rehabilitation or renovation is completed shall remain as such or may be used as single-family residences for the remainder of the exemption period.

(j) The property must, at all times, be in compliance with all Town codes, including, without limitation, the building code, the zoning ordinance, and all other codes that relate to real estate within the Town. Failure to correct the violation within the required time, as provided by the appropriate official, will void the remainder of the exemption. If a structure is damaged or destroyed and found to be uninhabitable, the exemption will be terminated.

(k) No exemption shall be granted if access to the property is denied to the county commissioner of revenue or the building inspector of the Town.

(l) All taxes must be paid and current to be eligible for an exemption. If the property is more than 30 days delinquent on taxes, then the remainder of the exemption will be void.

(m) Only one rehabilitation or renovation real estate tax exemption shall be active for a parcel at any given time.

Section 3-254 - Exemption to run with the land.

The rehabilitated or renovated real estate tax exemption shall run with the land, and the owner of such property during each of the years of exemption shall be entitled to the amount of partial exemption.

Section 3-255 - Effect on land book assessment.

Nothing in this section shall be construed as to permit the county commissioner of revenue to list upon the land books any reduced value due to the exemption determined as provided in section 3-251.

Secs. 3-256—3-276 - Reserved.

POLICE

CHAPTER V. DIVISION OF POLICE

Section 5-1. Composition.

The division of police shall be composed of a chief of police and such officers, patrolman, and other employees as the town council may determine appropriate. The chief of police shall be the chief law-enforcement officer of the town. The chief law enforcement officer shall be called the chief of police.

State law reference- Organization of police forces, Code of Virginia, title 15.2-1700, title 15.2-1701 .

(Adopted 07/01/2002, Revised 07/01/2006)

Section 5-2. Appointment of members by town council.

Members of the division of police shall be selected in accordance with such rules as the town council may prescribe.

(Adopted 07/01/2002)

Section 5-3. Warrants of appointment.

Each member of the division of police shall have issued to him a warrant of appointment signed by the mayor, in which the date of his appointment shall be stated, and such warrant shall be his commission.

(Adopted 07/01/2002)

Section 5-4. Oath of office.

Each member of the division of police shall, before entering upon the duties of his office, take and subscribe an oath administered by the mayor, that he will faithfully and impartially discharge and perform all the duties of his office. Such oath shall be filed and preserved with the records of the police department. The mayor is hereby authorized and empowered to administer such oaths.

(Adopted 07/01/2002)

Section 5-5. Bond of officers.

Officers of the division of police shall, if required by the town council, give bond in such penalty and with such security as the council may prescribe.

(Adopted 07/01/2002)

Section 5-6. General authority.

The officers and privates constituting the division of police of the town are hereby invested with all the power and authority which formerly belonged to the office of constable at common law in taking cognizance of, and in enforcing the criminal laws of the Commonwealth of Virginia, and the ordinances and regulations of the town.

State law reference- Similar provisions, Code of Virginia, title 15.2-1704.

(Adopted 07/01/2002)

Section 5-7. General duties.

Each member of the division of police shall endeavor to prevent the commission within the town of offenses against the law of the Commonwealth of Virginia and against the ordinances and regulations of the town; shall observe and enforce all such laws, ordinances, and regulations; shall detect and arrest offenders against the same; shall preserve the good order of the town; and shall secure the inhabitants thereof from violence and the property from injury.

State law reference- Similar provisions, Code of Virginia, title 15.2-1704.

(Adopted 07/01/2002)

Section 5-8. Civil authority restricted.

The members of the division of police shall have no power or authority in civil matters, except that a police officer of the town may execute and serve an order of temporary detention and a emergency custody order pursuant to the Code of Virginia, title 15.1-138 or may serve a order of protection pursuant to the Code of Virginia, title 15.1-138. However, a policeman of the town shall in all other cases execute such warrants or summons as may be placed in his hands by a magistrate for the town and shall make due return thereof.

State law reference- Similar provisions, Code of Virginia, title 15.2-1704.

(Adopted 07/01/2002)

Section 5-9. Fees not allowed police officers.

No court, shall in any case in which a fine is assessed for a violation of any law of the Commonwealth of Virginia or this town, assess as a part of the cost of the case any fee for arrest, or as a witness, for the benefit of any police officer of the town; nor shall any such police officer receive any such fee. Any police officer who accepts or receives any such fee shall be guilty of a class 4 misdemeanor, and in addition, the mayor may remove him therefor. Town police officers are not prohibited, however, from accepting or receiving rewards.

State law reference- Similar provisions, Code of Virginia, title 15.2-1710, title 46.2-218.

(Adopted 07/01/2002)

Section 5-10. Powers of town police beyond territorial limits.

The chief of police and any other town police officer having powers of arrest in the town, may lawfully go to the property owned by the town and operated by the governing body of the town, which is commonly known as the Cowpasture River Recreational Area, which is operated as a public park, for the purpose of protecting such property, keeping order therein, or otherwise enforce the laws of the Commonwealth of Virginia and ordinances of the town as such laws and ordinances may relate to the operation and use thereof. Such chief of police or other town police officer shall have power to make arrest for violation of any law or ordinance relating to the operation and use of such property.

State law reference- Similar provisions, Code of Virginia, title 15.2-1725.

(Adopted 07/01/2002)

Section 5-11. Ex officio conservation police officers.

The chief of police and all other town police officers shall be ex officio conservation police officers.

State law reference- Ex officio conservation police officers, Code of Virginia, title 29.1-202.

(Adopted 07/01/2002, Revised 07-01-2007)

Section 5-12. Authority of the chief of police.

The chief of police shall have immediate direction and control of the division of police, subject, however to such rules, regulations, and orders as town council may prescribe. The chief of police shall promulgate all orders, rules and regulations for the government of the division of police.

(Adopted 07/01/2002)

Section 5-13. Uniforms and badges of members.

The chief of police shall prescribe the uniforms and badges for the members of the division of police.

(Adopted 07/01/2002)

Section 5-14. Arming of members.

The chief of police shall direct the manner in which the members of the division of police shall be armed.

(Adopted 07/01/2002)

MISCELLANEOUS OFFENSES AND PROVISIONS

CHAPTER IX. MISCELLANEOUS OFFENSES

Section 9-1. Disorderly conduct in public places.

- (a) A person shall be 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 person at whom individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under the provisions of the Code of Virginia, title 18.2; or
 - (2) Willfully or being intoxicated, whether willfully or not, disrupts any meeting of the town council or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person at whom, individually, such disruption is directed; provided, however, such conduct shall not be deemed to include utterance or display of any words or to include any conduct otherwise made punishable under the provisions of Code of Virginia, title 18, chapter 2.
- (b) The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any person who may be called upon for such purpose.
- (c) A person violating any provision of this section shall be guilty of a Class 1 misdemeanor.

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

(Adopted 07/01/2002)

Section 9-2. Punishment for using abusive language to another.

If any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent, abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a Class 3 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-416.

(Adopted 07/01/2002)

Section 9-3. Profane swearing and intoxication in public.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor.

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

(Adopted 07/01/2002)

Section 9-4. Drinking alcoholic beverages in public.

If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he shall be guilty of a Class 4 misdemeanor; provided, however, that the provisions of this section shall not be construed to prevent any person from drinking alcoholic beverages, or tendering a drink thereof to another, in any place that is permitted under Code of Virginia, title 4, chapter 1.

State law reference- Similar provisions, Code of Virginia, title 4.1-308.

(Adopted 07/01/2002)

Section 9-5. Drinking alcoholic beverages while driving.

- (a) It shall be unlawful for any person to consume alcoholic beverage while driving a motor vehicle upon a public highway in the town. A violation of this section is punishable as a Class 4 misdemeanor.
- (b) A rebuttable presumption that the driver has consumed an alcoholic beverage in violation of this section shall be created if (i) an open container is located within the passenger area of the motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed and, (iii) the appearance, conduct, odor of alcohol, speech or other physical characteristic of the driver of the motor vehicle may be reasonably associated with the consumption of an alcoholic beverage.
- (c) For the purposes of this section:

“Open container” means any unsealed vessel containing an alcoholic beverage.

“Passenger area” means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. This term shall not include the trunk of any passenger vehicle, the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or similar vehicle.

“Public highway” means the entire width between the boundary lines of every way or place of whatever nature open to the use of the public for purposes of vehicular travel in the town, including the streets and alleys, and, for law enforcement purposes, the entire width between the boundary lines of all private roads or private streets which have been specifically designated “highways” by an ordinance adopted by the governing body of the town.

State law reference- Similar provisions, Code of Virginia, title 18.2-323.1.

(Adopted 07/01/2002, Revised 0...)

Section 9-6. Possession or consumption of alcoholic beverages in town parks.

If any person, in or upon the grounds of any town park, shall take a drink of any alcoholic beverage or have in his possession any alcoholic beverage or any beverage in any container labeled as an alcoholic beverage, he shall be guilty of a Class 4 misdemeanor. As used in this section, the term "alcoholic beverage" shall have the same meaning set forth in Code of Virginia, title 4, chapter 1. For the purposes of this section the term "town park" means any public place owned, leased, or operated by the Town of Iron Gate, in the Commonwealth of Virginia, and designated for recreational use.

State law reference- Similar provisions, Code of Virginia, title 4.1-308.

(Adopted 07/01/2002)

Section 9-7. Trespass after having been forbidden to do so generally; penalties.

If any person without authority of law goes upon or remains upon 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 person or by the holder of easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises portion or area thereof at a place where it 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, or an ex parte order issued pursuant to Code of Virginia, after having been served with such order, he shall be guilty of a Class 1 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-119.

(Adopted 07/01/2002)

Section 9-8. Trespass upon church property.

- (a) Any person who, without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church for any purpose other than to attend a meeting or service held or conducted in such church or on such property, shall be guilty of a Class 3 misdemeanor.
- (b) It shall be unlawful for any person, whether or not a church member, to enter upon or remain upon any church property in violation of (i) any direction to vacate the property by a person authorized to give such direction or (ii) any posted notice which contains such information, posted at a place where it reasonably may be seen. Each time such person enters upon or remains on the posted premises or after such direction that person refuses to vacate such property, shall constitute a separate offense. Any person violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor.

- (c) For the purposes of this section: “church” means any place of worship and includes any educational building or community center owned or leased by a church.
State law reference- Similar provisions, Code of Virginia, title 18.2-128.

(Adopted 07/01/2002)

Section 9-9. Trespass upon town parks.

- (a) It shall be unlawful for any person to, without the consent of some person authorized to give such consent, enter upon or remain upon, in the nighttime, the lands, premises, buildings, or property of any town park or recreational area when posted in accordance with section 9-7.
- (b) It shall be unlawful for any person to enter upon or go upon town park property in violation of (i) any direction to vacate the property by a person authorized to give such direction or (ii) any sign, signs, or posted notice which contains such information, posted at a place or places where it or they may be reasonably seen. Each time a person enters upon or remains upon the posted premises or after such direction that person refuses to vacate such property it shall constitute a separate offense.
- (c) For the purposes of this section: (i) “town park” means any public place owned, leased, or operated by the Town of Iron Gate, in the Commonwealth of Virginia designated for recreational use and (ii) “nighttime” means the period of time after sunset until sunrise.
- (d) Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-128, title 18.2-119.

(Adopted 07/01/2002)

Section 9-10. Trespassing on railroad track.

Any person who goes upon the track of a railroad other than to pass over such road at a public or private crossing, or who willfully rides, drives, or leads any animal or contrives for any animal to go on such track except to cross as aforesaid, without the consent of the railroad company or person operating such road, shall be guilty of a Class 4 misdemeanor. A second violation of the provisions of this section occurring within two years of the first violation shall be punishable as a Class 3 misdemeanor. A third or subsequent violation of the provisions of this section occurring within two years of a second or subsequent violation shall be punishable as a Class 1 misdemeanor. This section shall not apply to any section of track which has been legally abandoned pursuant to an order of a federal or state agency having jurisdiction over the track and is not being used for railroad service. For the purposes of this section, track shall mean the rail, ties, and ballast of the railroad.

State law reference- Similar provisions, Code of Virginia, title 18.2-159.

(Adopted 07/01/2002)

Section 9-11. Trespassing on railroad trains.

If any person, not being a passenger or employee, shall be found trespassing upon any railroad car or train of any railroad in this town, by riding on any car, or any part thereof, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person shall be guilty of a Class 4 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-160.

(Adopted 07/01/2002)

Section 9-12. Trespassers forbidden to jump on or off railroad cars or trains.

If any person, not being a passenger or employee, but a trespasser, shall jump on or off any railroad car or train on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of such car or train over any part of any such railroad, such person shall be guilty of a Class 4 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-161.

(Adopted 07/01/2002)

Section 9-13. Discharge of firearms.

(a) It shall be unlawful for any person to willfully fire or discharge, or cause to be fired or discharged, any gun, rifle, pistol, shotgun, or other firearm of any kind in any street in the town, or in any place of public business, or place of public gathering in the town; provided that this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. Any person violating this section shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section, the word "firearm" shall mean any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure. The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

State law reference- Similar provisions, Code of Virginia, title 18.2-280, title 18.2-282.

(Adopted 07/01/2002)

Section 9-14. Interfering with town officers.

A. It shall be unlawful for any person without just cause to knowingly resist, abuse, obstruct or hinder any law-enforcement officer of the town in the discharge of his duties. Any person violating this section shall be guilty of a class 2 misdemeanor.

B. If any person, by threats or force, knowing attempts to intimidate or impede any law-enforcement officer of the town, lawfully engaged in his duties, he shall be guilty of a Class 1 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-460.

(Adopted 07/01/2002)

Section 9-15. Curfew hours for minors.

(a) *Definitions.* In this section:

Curfew hours means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(2) 12:00 midnight on any Friday or Saturday until 6:00 a.m. on the following day.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Guardian means:

(1) a person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

Minor means any person 17 years of age or under.

Parent means a person who is:

(1) A natural parent, adoptive parent, stepparent, grandparent or other person who has legal or physical custody of a minor; or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement, eating places, or vacant lots.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(b) *Offenses.*

- (1) It shall be unlawful for a minor to be or remain in any public place within the town during curfew hours.
- (2) It shall be unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to go to or be in any public place within the town during curfew hours.
- (3) It shall be a prima facie violation of this section if the Commonwealth shows that the juvenile was in any of the proscribed areas unaccompanied by a parent or adult guardian during the hours governed by this section.

(c) It is an affirmative defense to the prosecution under subsection (b) that the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) In a motor vehicle with parental consent for normal travel through the town and beyond town limits.
- (3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.
- (4) Involved in an emergency.
- (5) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization, a religious organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization, a religious organization or another similar entity that takes responsibility for the minor; or
- (6) Married or had been married or had disabilities of minority removed in accordance with article 15 of chapter 11 (title 16.1-331, et seq.) of title 16.1 of the Code of Virginia, 1950 as amended.

(d) *Penalties.*

- (1) a. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or

permitted.

- b. A person upon being convicted of violation of this section shall be subject to a fine of not more than \$500.00.

(2) The Juvenile and Domestic Relations Court for the town shall have exclusive original jurisdiction over cases, matters and proceedings involving violations of this section.

(Adopted 07/01/2002)

Section 9-16. Expectoring in public places.

No person shall spit, expectorate or deposit any sputum, saliva, mucus or any form of saliva or sputum upon the floor, stairways or upon any part of any public building or place where the public assembles, or upon the floor of any public conveyance, or upon any sidewalk abutting on any public street, alley or lane of the town. Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor.

State law reference- Similar provisions, Code of Virginia, title 18.2-322.

(Adopted 07/01/2002)

Section 9-17. Urination or defecation in public.

It shall be unlawful for any person to urinate or defecate in or on any sidewalk, street, alley, or in any public place or any place where others are present, unless, such urination or defecation be in a bathroom, restroom or other facilities specifically designed for such purpose. Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor.

(Adopted 07/01/2002)

Section 9-18. Dumping trash, etc., on public property, right-of-way or private property.

- (a) Any person shall be guilty of a class 1 misdemeanor who dumps or otherwise disposes trash, garbage, refuse, litter, or other unsightly matter, on public property, including a public highway, right-of way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.
- (b) When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.
- (c) Any person convicted of such violation shall be guilty of a class 1 misdemeanor.
- (f) The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

State law reference- Similar provisions, Code of Virginia, title 33.1-346.

(Adopted 07/01/2002)

Found in Police office
10/24/14

Section 9-19.

**AN ORDINANCE TO REGULATE CERTAIN TRAFFIC
NOISE AND EXCESSIVE SOUND IN THE TOWN OF IRON
GATE**

WHEREAS, the Council of the Town of Iron Gate has determined that certain identifiable traffic noise and excessive sound poses a hazard to the residents of the town in that it may jeopardize their health, welfare and safety or degrade the quality of life and ought to be regulated.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Iron Gate, Virginia, that this Ordinance is hereby enacted as follows:

**MOTOR VEHICLES AND TRAFFIC
CERTAIN TRAFFIC NOISES**

INTENT

It is the intent of the governing body to ensure its citizens an environment free from such excessive sound as may jeopardize their health, welfare and safety, or degrade the quality of life.

DEFINITIONS

As used in this section:

- a. Emergency vehicle means any vehicle which is used in response to a public calamity or to rescue or protect persons or property from an imminent exposure to danger.
- b. Motor vehicle means any vehicle which is self propelled and every vehicle which is propelled by electric power but not a vehicle which operates on rails.
- c. Muffler means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- d. Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.
- e. Public right-of-way means any street, avenue, boulevard, highway or alley or similar place which is owned or controlled by a public governmental entity.
- f. Retarder means any exhaust and or engine device used as a brake power to slow down a motor vehicle's rate of speed, and includes a Jacobs ("Jake") brake.

NOISES PROHIBITED

a. The following are in violation of this section:

- 1. The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public right-of-way within the town except as a danger warning signal as provided by the state Motor Vehicle Code, or in the sounding of any such signaling device for any unnecessary period of time.**
- 2. The sounding of any device or piece of equipment including but not limited to a retarder which helps slow a motor vehicles rate of speed (braking power). When activated, a retarder creates noise through the motor vehicle's exhaust system.**

MOTOR VEHICLE NOISE

a. No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:

- 1. Free from defects which affect sound reduction.**
- 2. Equipped with a muffler or other noise dissipative device.**
- 3. Not equipped with any cut out or by pass or similar device; and**
- 4. Not modified in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by a muffler of the type originally installed on the vehicle.**

b. The procedures for enforcing the provisions of this subsection are as follows;

- 1. A person reasonably suspected of violating of this subsection shall be issued a summons charging a violation of this subsection; and**
- 2. The violator may decide to effect a repair of bring the vehicle into compliance prior to appearance in court. It will be the responsibility of the violator to arrange retesting of the vehicle for compliance and, if it is found in compliance, the violator will have the right to present evidence of said compliance in mitigation of the charge.**

c. In order to implement and enforce this subsection, and for the general purpose of noise abatement, a uniformed police officer shall have, in addition to any other authority vested in him, the power to stop a motor vehicle reasonable suspected of violating any provision of this subsection, and issue a notice of violation.

EXEMPTIONS

The following uses and activities shall be exempt from noise level regulations;

1. Noise of safety signals, warning devices and emergency pressure relief valves.
2. Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
3. Noise resulting from the use of a retarder in an EMERGENCY SITUATION.

When evidence has been presented that is sufficient to make a prima facie case of a violation of this ordinance, then the burden shall be upon the defendant to prove any exemption claimed hereunder.

SIGNAGE

The Town Council shall caused to be posted and maintained signs at each highway entrance to the town which shall conspicuously state:

USE OF ENGINE BRAKE (RETARDER, "JAKE BRAKE") IS PROHIBITED

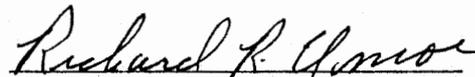
VIOLATIONS AND PENALTIES

a. Any person violating any provisions of this section shall be punished by a fine of not more than one hundred dollars (\$100.00).

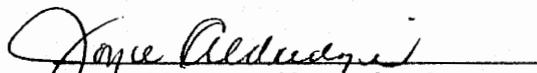
ADOPTED BY VOTE OF THE TOWN COUNCIL AS FOLLOWS:

FIRST READING May 25, 2000 VOTE: FOR: 5 AGAINST 0

SECOND READING June 29, 2000 VOTE: FOR: 5 AGAINST 0


RICHARD R. UNROE, MAYOR

Attest:


Joyce Aldridge, Town Clerk

Public notice was advertised on May 18, 2000 and June 21, 2000.

Adopted June 29, 2000

MOTOR VEHICLES AND TRAFFIC

CHAPTER XIX. MOTOR VEHICLES AND TRAFFIC

Section 19-1. Definitions.

Words and phrases used and contained in this chapter shall have the meanings ascribed to them by the state law adopted in section 19-3, except where the context clearly indicates a different meaning.

State law reference- Similar provisions, Code of Virginia, title 46.2-100.

Section 19-2. Compliance with this chapter; general penalty for violations.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the sections of this chapter. Unless otherwise specifically provided, a violation of this chapter shall constitute a traffic infraction punishable by a fine of not more than \$200.00.

State law reference- Similar provisions, Code of Virginia, title 46.2-113.

Section 19-3. Adoption of state law.

- (a) Pursuant to the authority of the Code of Virginia, title 46.2-1313, all the provisions and requirements of the laws of the commonwealth contained in Code of Virginia, title 46, chapter 2, except those provisions and requirements which by their very nature, can have no application to or within the town, and the provisions of the Code of Virginia, title 18.2-266—title 18.2-273 are adopted and incorporated in this section by reference and made applicable within the town.
- (b) The provisions and requirements referred to in subsection (a) of this section are adopted, mutatis mutandis, and made part of this section as fully as thought set forth at length in this section, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any such provision or requirements. In no event shall the penalty imposed for the violation of any such provision or requirement exceed the penalty imposed for that offense under the state law adopted in this section.

State law reference- Similar provisions, Code of Virginia, title 46.2-1313.

MOTOR VEHICLE LICENSE

CHAPTER XVIII. VEHICLE LICENSE

AMENDMENTS TO CHAPTER 18 ENTITLED "VEHICLE LICENSE" OF THE CODE OF THE TOWN OF IRON GATE, VIRGINIA

On a motion of Councilman Erskine, seconded by Councilwoman Tyree, that the town eliminate the need to purchase and display an annual town vehicle license decal.

WHEREAS, Section 46.2-752 of the Code of Virginia authorizes the town to impose license fees to motor vehicles, trailers, and semi-trailers; and

WHEREAS, Section 46.2-752 of the Code of Virginia does not require the use of decals as evidence of payment of such fees; and

WHEREAS, the Iron Gate Town Council deems it unnecessary to require the display of a decal for license fee purposes; and

WHEREAS, the Iron Gate Town Council desires to change the license fee year to coincide with the schedule for the imposition and payment of taxes;

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Iron Gate, Virginia, that Chapter 18, Vehicle License, is amended to amend sections 18-3, 18-4, and 18-5; and repeal sections 18-7, 18-8, 18-9, 18-10, and 18-11; as Chapter 18 is reenacted as follows:

Section 18-1. Definitions.

Words and phrases used and contained in this section shall have the meanings ascribed to them as are set forth in Code of Virginia, title 46.2-100, except where the context clearly requires a different meaning.

(Adopted 07/01/2002)

Section 18-2. Violations of chapter.

Any person violating any section of this chapter shall be guilty of a class 4 misdemeanor.

State law reference- Penalty for Class 4 misdemeanor, Code of Virginia, title 18.2-11.

(Adopted 07/01/2002)

Section 18-3. Vehicle license required; exceptions.

(1) Registered vehicles.

Every motor vehicle registered or normally garaged, stored, or parked in the town and operated on public roads, streets, highways, and rights-of-way in the town shall be subject to annual licensing by the town unless the motor vehicle has been properly licensed in another political subdivision of this state, and it shall be unlawful for the owner of any such vehicle to fail to obtain such license.

(2) Situs.

The situs for the imposition of license fees under this chapter shall in all cases, be the locality in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of the owner.

(3) Exemptions.

- (a) This section shall not apply to any vehicle exempted by Code of Virginia, title 46.2-674 through 46.2-683 and 46.2-755, nor shall this section apply to any vehicle licensed pursuant to Code of Virginia, title 46.2-750 or any vehicle displaying special permanent plates approved and issued by the state department of motor vehicles pursuant to Code of Virginia, title 46.2-739, to veterans with service-connected disabilities or to any vehicle otherwise exempted by state law.
- (b) No person who has purchased a local vehicle license, decal, or sticker for a vehicle in another county, city, or town in Virginia and then moves to and garages his vehicle in the Town of Iron Gate shall be required to pay the annual license fee assessed by the town until the expiration of the local license, decal, or sticker issued by the county, city, or town from which he moved.
- (c) One motor vehicle license for each active member of a volunteer fire department and rescue squad may be issued free of charge, provided that the fire chief and rescue captain provides evidence of such membership of the qualified member, in the form of a list of the qualified members, to the town treasurer.

State law reference- Authority for above section, Code of Virginia, title 46.2-752.

(Adopted 07/01/2002 Amended 01/26/12)

Section 18-4. Payment of license fees; tax imposed.

All license fees required pursuant to this chapter shall be paid to the town treasurer. The license fee for each calendar year must be paid on or before December 5th of the year in which the fee applies. The license fee shall be billed along with the personal property tax.

The amount of the license taxes pursuant to this chapter shall be as follows, per annum:

- (1) On every automobile, including every truck, the annual license tax fee shall be \$20.00.
- (2) On every motorcycle, the annual license tax fee shall be \$11.00.

(3) On every trailer, including utility, boat, horse, recreational, and equipment trailer and on every trailer constituting a part or combination tractor truck and trailer or semitrailer, the annual license tax fee shall be \$8.00.

State law references- Authority of the town to impose vehicle license tax or fee, Code of Virginia, title 46.2-752, title 46.2-755.

(Adopted 07/01/2002 Amended 01/26/2012)

Section 18-5. License fee year.

The vehicle license fee shall commence on January 1st of each year and shall expire at 12:00 midnight on December 31st of the same year.

(Adopted 07/01/2002 Amended 01/26/2012)

Section 18-6. Payment of vehicle personal property taxes prerequisite to licensing.

No motor vehicle shall be licensed by the town unless the applicant for such license produces satisfactory evidence that all personal property taxes upon the motor vehicle to be licensed and satisfactory evidence that any delinquent motor vehicle personal property taxes owing, which have been properly assessed or are assessable against the applicant by the town, have been paid.

State law reference- Authority of the above section, Code of Virginia, title 46.2-752(C).

(Adopted 07/01/2002)

Sections 18-7 – 18-11. Repealed

Sections 18-7 – 18-11 Reserved.

Adopted: January 26, 2012

Effective: January 26, 2012

The aforementioned amendments were adopted by roll call vote:

Ms. Jennifer Tyree	Yes
Ms. Karen Patterson	Yes
Mr. Robert Daniel	Yes
Mr. Richard Erskine	Yes
Mr. Joseph Crawford	Yes
Mr. Fred Brackenridge	Yes

of the Town Council of the Town of Iron Gate, Virginia; on the 26th day of January, 2012.

PARKING

Chapter XX. PARKING

Section 20-1. Definition.

Parking prohibited means that no vehicle of any kind shall be parked or left standing for any purpose, either with or without the driver therein, in the area designated; such parking prohibitions shall apply at all times unless otherwise stated herein.

Section 20-2. Restricted and no parking areas generally.

- (a) The mayor is hereby authorized and directed to determine and define street areas within which the volume of vehicular traffic is such as to require restrictions upon parking of vehicles; to classify vehicles with reference to parking; to designate the time, place, and manner in which such vehicles may be allowed to park upon the streets; and to make such rules and regulations as traffic conditions may require in various areas and under varying conditions which may prevail at different times. It shall be the duty of the mayor, upon the promulgation of such regulations, and before the same shall become effective, to give public notice thereof by establishing and posting signs, or otherwise, as may be reasonably adequate to make clear to the operators of the vehicles in no parking or restricted parking areas, the existence, nature, and requirements of such regulations. From and after the effective date of regulations imposed in any area by virtue of the provisions of this chapter, it shall be unlawful for any person to stop or park any vehicle in any restricted or prohibited area otherwise in accordance with these regulations.
- (b) In any prosecution charging a violation of the regulation, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the regulation, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, title 46.2-600 et seq., shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

State law reference- Local parking regulations, Code of Virginia, title 46.2-1220.

Section 20-3. Parking prohibited in certain places.

- (a) No person shall park a vehicle, or permit it to stand, either attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or other traffic-control device, in any of the following places:
 - (1) On a side walk.
 - (2) On a crosswalk.

- (3) Within an intersection.
 - (4) On a highway in front of a public or private driveway.
 - (5) Within 15 feet of a fire hydrant.
 - (6) Within 15 feet of the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within 75 feet of the entrance when properly sign-posted.
 - (7) Within 30 feet upon approach to any flashing beacon, stop sign, or traffic control signal-device located at the side of the roadway.
 - (8) Within 50 feet of the nearest rail of a railroad crossing.
 - (9) On a highway, street, or alley in such manner as to impede or render dangerous the use by others.
 - (10) At any place where official signs prohibit parking.
 - (11) Double parking.
- (b) No person other than a police officer shall move a vehicle into any such prohibited area as is unlawful, or start or cause to be started the motor of any vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to the position other than in which it was left by the owner or driver thereof, or attempt to do so.

State law reference- Parking prohibited in certain places, Code of Virginia, title 46.2-1239.

Section 20-4. Requirements for parking.

No Person having control of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the emergency or parking brake thereon, stopping the motor, and turning the front wheels into the curb or side of the roadway.

State law reference- Requirements for parking, Code of Virginia, title 46.2-1071.

Section 20-5. Stopping on highways generally.

- (a) No person shall stop a vehicle in such a manner as to impede or render dangerous the use of the highway by others, except in the case of emergency, an accident, or mechanical breakdown. In the event of such emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. A report of the vehicle's location shall be made to the nearest law enforcement officer as soon as practicable and the vehicle shall be moved from the roadway to the shoulder without unnecessary

delay. If the vehicle is not promptly removed, such removal may be ordered by a law enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

- (b) No person shall leave any vehicle attended or unattended, upon the paved, improved or main-traveled portion of any highway outside the business or residence district when it is practicable to leave such vehicle standing off the paved, improved or main-traveled portion of such highway.
- (c) Except on one-way streets, no vehicle shall be stopped except close to and parallel with right-hand edge of the curb or roadway. In no instance shall such vehicle be parked with the near wheels farther than six inches from the curb.
- (d) The provisions of this section shall not apply to any vehicle owned or controlled by the state department of transportation or the town, while actually engaging in the garbage and trash collection and pick-up, construction, reconstruction, or maintenance of highways.

Section 20-6. Parking vehicles without state license on highways.

It shall be unlawful to park any vehicle having no current state license on any highway.

Section 20-7. Parking in spaces reserved for persons with disabilities.

- (a) No vehicles other than those displaying disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, or temporary removable placards issued under Code of Virginia, title 46.2-1241, or DV disabled parking license plates issued under subsection B of Code of Virginia, title 46.2-739, shall park in any parking spaces reserved for persons with disabilities.
- (1) No person without a disability that limits or impairs his ability to walk shall park a vehicle with disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, temporary removable windshield placards, or DV disabled parking license plates issued under subsection B of Code of Virginia, title 46.2-739 in a parking space reserved for persons with disabilities that limit or impair their ability to walk except when transporting a disabled person in the vehicle.
- (2) A summons or parking ticket for the offense may be issued by law-enforcement officers.
- (b) Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than \$100.00 nor more than \$250.00 for each offense.
State law reference- Similar provisions, Code of Virginia, title 46.2-1242.

Section 20-8. Penalty for violation of article.

Unless otherwise provided, any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than \$25.00 nor more than \$50.00 for each offense.

Section 20-9. Removal and disposition.

In addition to the fines imposed for a violation of this article, any motor vehicle parked in violation of this article may be removed to a garage or parking lot for storage at the expense of the owner of the motor vehicle.

State law reference- Similar provisions, Code of Virginia, title 46.2-1213.

Section 20-10. Parking Enforcement.

Enforcement of this chapter shall be by the chief of police.

Section 20-11. Inoperative Motor Vehicles; Keeping on Residential and Commercial Property Prohibited; Penalty, Removal, Sale.

- (a) It shall be unlawful for any person to keep, except within a fully enclosed building or structure, on any property within the town limits any automobile or motor vehicle, any motor vehicle parts or equipment, trailer or semi-trailer, as such as defined in Code of Virginia 46.2-100, the condition of which is such that it is economically impractical to make it operative, provided that this section shall not apply to town-licensed automobile dealers or to town-licensed junk dealers, salvage dealers or scrap processor licensed in the town limits.
- (b) For purposes of this section, "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition; or which for a period of thirty (30) days or longer has been partially or totally disassembled by the removal of tires or wheels, the engine or other essential parts required for operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal.
- (c) Any person or persons violating the provisions of this section which is designated applicable to all owners of residential and commercial property shall be guilty of a class 4 misdemeanor, and each day's violation is hereby, designated and shall be construed a separate offense.
- (d) A special use permit for manufacturing and industrial companies located within the town limits may apply by application within thirty (30) days of locating a trailer or semi-trailer used for storage of materials related to said company that are zoned for such business. The fee shall be \$10.00 and is valid for one (1) year from the date of application. The aforementioned trailers shall be maintained in a reasonable condition as to not cause a danger to the public. The town may revoke any permit at any time in written form to the owner of such company, business or trailer for non-compliance.

(e) It is intended that this section shall be construed in accordance with the provisions of the Code of Virginia, Title 46.2.

State law reference- Similar Provisions, Code of Virginia, title 46.2-1200.1 and 46.2-1201.

(Adopted 10/02/1996, Amended 01/01/2002)

AMENDMENT TO SECTION 246

ORDINANCES OF THE TOWN OF IRON GATE

SECTION 280

This ordinance is adopted by the Town Council of the Town of Iron Gate pursuant to 46.2-1220 of the *Code of Virginia* (1950) as amended. The purpose of this ordinance is to further public safety by increasing visibility and facilitating the flow of traffic within the Town.

* * *

It shall be unlawful for any person to park a road tractor, tractor truck, semi-trailer or tanker, attached or unattached, on or alongside any public street, road, highway or alley lying within the corporate limits of the Town. Notwithstanding the foregoing prohibition, parking on or alongside U.S. 220 shall not be affected unless otherwise posted.

This ordinance is not intended to preclude parking for the purpose of loading or off loading cargo.

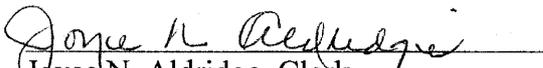
For the purpose of this section, "road tractor", "trailer truck" and "semi-trailer" shall be defined in accordance with Section 46.2-100 of the *Code of Virginia* as amended.

A violation of this section shall be a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

Amended by the Town Council of the Town of Iron Gate, Virginia this 25th day of May, 2006.

Attest:


Alan P. Williams, Sr., Mayor


Joyce N. Aldridge, Clerk

CHAPTER IX - KEEPING ANIMALS WITHIN THE TOWN LIMITS

ARTICLE I - IN GENERAL

Section 9-1 - Definitions.

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

“Animal” means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, *Code of Virginia*, as amended, as it applies to this Ordinance, the term “animal” means any species susceptible to rabies.

“Animal shelter” means a facility that is used to house or contain animals and which is owned, operated or maintained by a duly incorporated humane society or other organization devoted to the welfare, protection and humane treatment of animals.

“Beehive” means a single colony, hive or stand of bees, regardless of size.

“Bite” means to seize with the teeth or jaws so that a person or animal has been nipped, gripped, wounded, or pierced and saliva of the biting animal has contacted the resulting break or abrasion of the skin.

“Cat” means any feline or member of the animal species *Felis catus*.

“Control of an animal” means that the animal is:

- (1) On a leash held by a caretaker not more than fifteen (15) feet in length;
- (2) On or within a vehicle being driven or parked; or
- (3) Within the property limits of its owner or handler or upon the premises of another person with the consent of that person.

Dangerous dog.

(1) The term “dangerous dog” means any dog which has:

- a. Bitten any person or companion animal as defined in § 3.1-796.66, *Code of Virginia*, as amended, other than a dog;
- b. Attacked any person or companion animal, other than a dog;
- c. Inflicted injury on a person or companion animal, other than a dog;
- d. Killed a companion animal; or
- e. Been found to be a dangerous dog by any general district court, circuit court or law enforcement officer of the commonwealth.

(2) Any dog evidencing the characteristics or conduct described in subsections (1)a, b, c or d of this definition shall be a dangerous dog even though not previously found dangerous by any court.

“Dog” means any canine or any member of the animal species *Canis familiaris*, or any canine crossbreed.

“Equine animal” means any horse, pony, mule, jackass, donkey, burro or other equine animal,

regardless of sex or age.

“Exotic animal” means any live monkey (nonhuman primate), raccoon, skunk, wolf, wolf-canine hybrid, squirrel, fox, porcine, leopard, tiger, lion, panther, ratite or any other warm-blooded animal, poisonous reptile or nonpoisonous reptile which can normally be found in the wild state or any other member of the crocodylian, including, but not limited to, alligators, crocodiles, caimans, and gavials. Ferrets, birds which are normally purchased through pet stores (with the exception of ratites), domestic rabbits and domestic rodents which have been bred in captivity and which never have known the wild shall be excluded from this definition.

“Harborer” or “custodian” means any person who provides food or shelter for any domesticated animal on other than a periodic or temporary basis (up to 24 hours).

“Livestock” means all bovine animals; equine animals; ovine animals; swine and porcine animals, including Vietnamese pot-bellied pigs and related breeds of pigs; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.1-73.6, *Code of Virginia*, as amended; enclosed domestic rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber.

“Owner” means any person who:

- (1) Has a right of property in an animal;
- (2) Keeps or harbors an animal;
- (3) Has an animal in his care; or
- (4) Acts as a custodian of an animal.

“Poultry” means any domesticated bird raised for food, either meat or eggs, feathers or show, including, but not limited to, chickens, ducks, geese, swans, turkeys, guinea fowl and pigeons.

“Public nuisance” means any animal or fowl that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life and property. The term “public nuisance” means and includes any animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owners;
- (3) Excessively makes disturbing noises, including, but not limited to, continued, and repeated caterwauling, howling, whining, barking, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (4) Creates noxious or offensive odors;
- (5) Defecates upon any public place or upon premises not owned or controlled by the animal owner or handler, unless promptly removed by the animal owner or handler; or
- (6) Creates an insect breeding and/or attraction site due to an accumulation of excreta.

“Ratite” means a flightless bird, such as an ostrich or emu, that has a flat breastbone without the ridge-shaped part keel to which the flight muscles are attached in a flying bird.

“Swine” means all porcine animals, including Vietnamese pot-bellied pigs and related breeds of

pigs.

“Vicious dog” means any dog which:

- (1) Has killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of bodily function;
- (3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding; or
- (4) Has been found vicious by any court of the Commonwealth.

“Work dog” means any member of the animal species *Canis familiaris* trained for, and actively engaged in, rescue, law enforcement or as a guide for the blind or deaf.

State Law reference— Definitions, §§ 3.2-5900, 3.2-6500, *Code of Virginia*, as amended.

Section 9-2 - Keeping of most animals prohibited.

It shall be unlawful for any person to own, keep, maintain or possess any horse, mule, ass, jennet, cow, calf, heifer, steer, goat, pony, or any other farm animal at any place within the Town limits.

Chickens may be kept subject to Section 9-10 of this Chapter.

Section 9-3 - Livestock running at large.

It shall be unlawful for any person to permit to run at large at any time in the streets, alleys and public ways of the Town any cow, calf, horse, mule, steer, goat, swine, sheep or bull belonging to such person or under his care or control.

Any animal found running at large in the Town in violation of this section shall be taken up by the police and impounded and kept until such fine as may be assessed against the person violating this section shall be paid, together with the costs of keeping the animal.

Section 9-4 - Dangerous or vicious animals running at large.

If any person shall permit any dangerous or vicious animal owned or kept by him to go at large in the Town, he shall be guilty of a misdemeanor, and such animal may be killed by order of the judge of the general district court unless, after 24 hours' notice to the person owning or keeping the same, such animal is removed beyond the limits of the Town.

Section 9-5 - Cruelty to animals.

- (a) Any person who overrides, overdrives, overloads, tortures, ill treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another; or deprives any animal of necessary sustenance, food, drink or shelter or emergency veterinary treatment; sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; or willfully sets on foot, instigates, engages in or in any way furthers any acts of cruelty to any animal; or carries or causes to be carried in or upon any

vehicle, vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

Prosecution for violations of this subsection shall commence within five years after commission of the offense. Prosecution of this subsection regarding agricultural animals, as defined in § 3.2-6500 et seq., *Code of Virginia*, as amended, shall commence within one year after the commission of the offense.

- (b) Any person who abandons any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street or on the property of another, shall be guilty of a Class 3 misdemeanor.
- (c) Nothing in this section shall be construed to prohibit the dehorning of cattle.
- (d) For the purposes of this section, the term “animal” shall be construed to include birds and fowl.

State Law reference— Cruelty to animals, § 3.2-6570, *Code of Virginia*, as amended.

Section 9-6 - Town designated as bird sanctuary.

The entire area embraced within the corporate limits of the Town shall be, and the same is, hereby designated as a bird sanctuary.

Section 9-7 - Shooting, trapping, etc., birds prohibited; exceptions.

It shall be unlawful for any person to trap, shoot or attempt to shoot or molest in any manner any bird or wildfowl or to rob bird nests or wildfowl nests within the Town; provided that, if blackbirds, red-winged blackbirds, grackles, cowbirds, pigeons and starlings, or any other species declared to be a nuisance birds by regulations of the state board of agriculture and consumer services are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the Town, such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of a designee of Town Council, in which event a copy of the health officer’s ruling shall be filed with the Town Council.

Section 9-8 - Backyard Chickens.

(a) Intent

With the increased awareness of self-sufficiency, sustainability and urban farming, the raising of a limited number of chickens is allowed as an accessory use to detached single family residential properties provided that the use meets certain minimum standards and does not pose a health hazard or become a nuisance to adjoining property owners.

(b) Standards

The keeping of backyard hens shall be allowed in non-agriculturally zoned areas in accordance with the following standards:

- i. The residence on the property must be a single family dwelling.
- ii. The owner must reside on the same lot, or a contiguous lot owned by the same owner, as the lot where the chickens are kept.

- iii. The minimum total property size shall be five thousand (5,000) square feet.
- iv. No more than three (3) chickens per member of the household are permitted, with a maximum of twelve (12) chickens allowed on a single property.
- v. Each owner shall provide feed to prevent malnourishment, water to prevent dehydration, and veterinary treatment as needed, pursuant to § 3.2-6503.1, *Code of Virginia*, as amended.
- vi. A coop is required for the adequate care and protection of all chickens.
- vii. Permanent chicken coops must be zoned as any another permanent structure and require a zoning compliance permit. Structures, including fences, must be at least five (5) feet from any alley, at least forty (40) feet from the center line of the highway in front of the residence, at least ten (10) feet from the adjoining neighbor's property lines, and at least twenty-five (25) feet from the adjoining neighbor's homes.
- viii. A chicken coop shall be deemed portable if it can be moved by two (2) or fewer persons. Portable coops must meet the same zoning standards and requirements as permanent chicken coops.
- ix. Coops are required to have a minimum of three (3) square feet of fenced-in living space per chicken.
- x. Chickens must remain in their coop at all times. Chickens may not roam in other areas of the property or off of the property. Coops shall be well-ventilated and kept in clean, dry, and sanitary condition at all times.
- xi. Feed shall be stored and maintained in a secure container.
- xii. Manure and other waste products shall be properly handled and disposed of so as to not create an odor, attract vermin, or create a nuisance for surrounding property owners.
 - (a) Evidence of vermin or excessive odors is cause for revoking both the Zoning Compliance Permit and any Grower's Permits.
- xiii. Chickens may be slaughtered for personal use, but slaughtering, cleaning, and any other associated activity may be performed only in an enclosed building out of public view.

(c) Process for Approval

A request for a Zoning Compliance Permit, including a building plan, shall be submitted and reviewed by the Zoning Administrator. A Zoning Compliance Permit will be issued for the keeping of chickens after the Zoning Administrator determines that the application and building plan complies with the requirements of this Section. The Permit must include a copy of the requirements for the keeping of chickens and information regarding the reporting of any violations of this ordinance.

Any proposed changes to the size or location of any Permitted coop, other than complete removal, must be submitted to the Zoning Administrator and approved before any changes are made.

(d) Permits

The property owner must obtain a Grower's Permit from the Clerk of the Town of Iron Gate every year.

The Grower's Permit will cost thirty-five dollars (\$35) from the date of issuance through the end of the then-current fiscal year. This fee will include a background check. Grower's Permits will cost twenty-five dollars (\$25) per year for subsequent years, which must be paid by July 31 or the Permit may be revoked.

Permits are non-transferable. Permits may be revoked at any time at the discretion of the Zoning Administrator or by vote of Town Council for any violations of the above-listed standards.

(e) Criminal Violations

Any person who abuses, neglects, or otherwise harms any chicken, other than slaughtering for personal use, shall be guilty of violations of the above-mentioned standards, and shall be subject to any and all criminal penalties provided by § 3.2-6570, *Code of Virginia*, as amended, which makes animal cruelty a Class 1 Misdemeanor.

Section 9-9 - Leaving maimed, diseased, etc., animal or fowl in road or public place.

If any person having the custody of any maimed, diseased, disabled or infirm animal or fowl leaves it to lie or be in any street, road or public place, that person shall be guilty of a Class 3 misdemeanor.

Section 9-10 - Burial or cremation of dead animals.

- (a) When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried, and, if he fails to do so, any judge of the general district court, after notice to the owner, if he can be ascertained, shall cause such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover from the owner of every such animal so cremated or buried the actual cost of such cremation or burial, not to exceed \$75.00, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.
- (b) This section shall not be deemed to require the burial or cremation of the whole or any portion of any animal or fowl which is to be used for food or in any commercial manner.
- (c) A violation of this section shall constitute a Class 3 misdemeanor.

Section 9-11 - Violation.

Violation of this chapter shall constitute a Class 3 misdemeanor and, in addition, any such violation is hereby declared a public nuisance. Any person suffering injury or damage therefrom may seek the correction, removal or abatement of such nuisance through appropriate suit in equity. Any public nuisance may also be corrected, removed or abated through appropriate suit in equity by any person suffering injury or damage therefrom, pursuant to § 15.2-1115, *Code of Virginia*, as amended.

Section 9-12 - Recovery of enforcement costs.

In addition to any civil or criminal penalty specifically enumerated herein, any costs associated with enforcing any provision of this chapter, including capture and impoundment, shall be chargeable to and paid by the owner of the animal and shall be collected by the Town Clerk in the same manner local levies are collected.

If the owner of the animal also owns property within the Town limits, every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against that property.

Secs. 9-13—9-40 - Reserved.

ARTICLE II - CARE AND CONTROL OF DOGS AND CATS

DIVISION 1 - GENERALLY

Section 9-41 - Running at large.

Dogs shall not be allowed to run at large in the Town. For the purpose of this section, a dog shall be deemed running at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

Section 9-42 - Impoundment when dog and/or cat found running at large.

- (a) Dogs. The police officer or any other official designated by the Town Council shall capture and impound any dog found running at large within the Town, whether such dog is licensed or unlicensed.
- (b) Cats. Any cat found in violation of any provision of this chapter, or whose owner is in violation of any provision of this chapter, or any cat creating a public nuisance, may be seized by any police officer or any other official designated by the Town Council and impounded. The officer seizing any cat and officials of the Town shall follow the procedures established for impounded dogs in Section 9-43 in keeping and disposing of any impounded cat.

Section 9-43 - Minimum holding period; notice to owner.

- (a) Dogs. Any dog impounded as provided for in Section 9-42 shall be held for a minimum period of seven days without a collar or 12 days with a license. If the police officer or other official designated by the Town Council knows the owner of the impounded dog, notice shall be served on such owner. If the humane shelter determines that the dog is severely injured, that dog may be euthanized immediately.
- (b) Cats. Any cat impounded as provided in Section 9-42 shall be held for a minimum period of seven days without a collar or 12 days with a collar. If the police officer or other official designated by the Town Council knows the owner of the impounded cat, notice shall be served on such owner. If the humane shelter determines that the cat is severely injured, that cat may be euthanized immediately.

Section 9-44 - Removal of dog or cat feces.

Any owner or person having custody of any dog or cat shall not permit said animal on any public grounds, including public streets, alleys, sidewalks, parks, cemeteries or any other public grounds within the Town, unless said owner or person in control expeditiously removes any excrement deposited by said dog or cat in any such place.

Secs. 9-45—9-70 - Reserved.

DIVISION 2 - RABIES VACCINATIONS AND LICENSING

Section 9-71 - Rabies vaccination required.

- (a) The owner or custodian of all dogs and/or cats, four months of age and older, shall have them

currently vaccinated for rabies by a licensed veterinarian technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish, within a reasonable period of time, upon the request of the law enforcement officer, or other official designated by Town Council, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

- (b) A copy of the certificate of rabies inoculation shall be presented with the application for a certificate as required by Section 9-72. No license shall be issued unless such of rabies inoculation bears a date within one year prior to the date of certificate application if a one-year immunization vaccine was used, or within three years prior to the date of the certificate application if a three-year immunization was administered.

State Law reference— Rabies inoculation of companion animals, § 3.2-6521, *Code of Virginia*, as amended.

Section 9-72 - Certification required.

It shall be unlawful for any person to own or harbor any dog or cat four months or more in age in the Town without having first obtained a certificate by application to the Town. Only persons who comply with the provisions of this Chapter shall be entitled to receive and retain such certificate.

Licensing of animals may be required by Alleghany County, and all rules and regulations promulgated therefor by the County must be followed by the Town citizens pursuant to the Agreement currently in effect between the Town and the County.

Section 9-73 - Purpose of certification; fees.

The purpose of certification of dogs and cats is to establish ownership of the animal.

There will be no fee for certification of dogs and cats that have been spayed or neutered.

The fee for certification of unaltered dogs and cats will be five dollars (\$5.00) per animal per year.

Section 9-74 - Procedure for certification.

Owners of dogs and cats must certify their ownership with the Town Clerk annually. Proof of spaying and neutering must be provided at the time of certification. The Town Clerk is authorized to establish any procedures and requirements necessary to effect the purposes of this Chapter.

Section 9-75 - Penalties.

Any owner of a dog or cat who fails to certify the animal pursuant to this Chapter shall be guilty of a Class 3 Misdemeanor. The Town Clerk, or other designee of Town Council, may enforce the certification provision using any remedy provided anywhere else in this Chapter.

Section 9-76 - Limitation on number of dogs and cats.

- (a) No person or household shall keep a total of more than five dogs and cats over four months of age, of which no more than three may be dogs, on tracts that are two acres or less in size.
- (b) Tract size is determined by plat, and the fact that one person or family may own and/or occupy multiple adjoining lots is immaterial. Such a person or family will be considered to live on one tract.
- (c) Violations of this section shall constitute a Class 2 misdemeanor.

Section 9-77 - Additional Animals.

Persons or households desiring to keep more than five dogs or cats may apply for an Additional Animal Certificate.

Additional Animal Certificates are required to have approval from the Zoning Board and complete the process of obtaining a Conditional Use Permit prior to the issuance of a Additional Animal Certificate.

All animals above the five animal limit must be spayed or neutered as a condition of obtaining an Additional Animal Certificate.

Section 9-78 - Bite procedures.

All incidents of bites by a dog or cat suffered by a human shall be reported to the Allegheny County Sheriff's Office within twenty-four (24) hours of the bite, who may report all bite incidents to the county health department on forms and in the time sequence required by that agency. The Sheriff's Office shall follow their rules and procedures regarding examination and quarantine of biting animals.

Section 9-79 - Expense liability.

- (a) The owner or handler of any dog or cat requiring veterinarian, impounding, licensing, destruction or disposition services as a result of any violations of this division shall be responsible for all such expenses. In addition, failure to assume such expenses shall be deemed an act of disclaiming, and the dog or cat involved shall be considered a stray animal.
- (b) The owner of any dog or cat causing damage to the property of any other person shall be civilly liable for such damages.

Secs. 9-80—9-100 - Reserved.

DIVISION 3 - DANGEROUS DOGS

Section 9-101 - Owning or harboring; penalties; procedures; determination whether dangerous dog by police officer.

- (a) Dangerous dog. It shall be unlawful and a Class 1 misdemeanor to own, keep, harbor, act as custodian of, or permit to remain on or about any premises any dog that the owner knew or reasonably should have known to be a dangerous dog, except in strict compliance with Section 9-103. If, after hearing evidence, the court finds any dog to be a dangerous dog, the court shall, in

addition to any other penalties imposed, order the dog's owner to comply with the provisions of Section 9-103. If any owner of a dangerous dog willfully fails to comply with Section 9-103, such owner shall be guilty of a Class 1 misdemeanor.

- (b) Procedures. When the police officer has reason to believe that a dog within his jurisdiction is dangerous, he may apply to the magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specific time. The summons shall advise the owner of the nature of the proceedings and the matters at issue. The humane society, animal shelter or owner shall confine the dog until such a time as evidence shall be heard and a verdict rendered. The court, through its contempt power, may compel the owner, custodian or handler to produce the animal. If any dog is found to be a dangerous or vicious, the owner, custodian or handler of such dog shall be responsible for payment of any expenses of impounding and keeping the dog, pending disposition in the case.
- (c) Determination of dangerous dog. In lieu of obtaining a summons, the police officer may, in his discretion, make a determination after an investigation whether a dog is dangerous. If the police officer determines a dog is a dangerous dog, he may order the dog owner to comply with the provisions of this division. If the dog owner disagrees with the police officer's determination, he may appeal the determination to the general district court for a trial on the merits within thirty (30) days of the determination.

State Law reference— Dangerous dogs, § 3.2-6540, *Code of Virginia*, as amended; vicious dog, § 3.2-6540.1, *Code of Virginia*, as amended.

Section 9-102 - Licensure.

The owner of any dog found by a court to be dangerous shall, within forty-five (45) days of such finding, obtain a dangerous dog license from the town by paying the fee required in Section 9-74, and any other outstanding fees and costs. The Town Clerk shall provide the owner with a uniformly designed tag, which identifies the dog as a dangerous dog. The owner shall affix the tag to the dog's collar and ensure that the dog wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this section shall be updated and renewed for a fee of \$85.00 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the state dangerous dog registry.

Section 9-103 - Keeping dangerous dogs; conditions.

It shall be unlawful for any owner of any dangerous dog to own, keep or harbor any such animal within the town except in compliance with each of the following conditions and specifications:

- (1) While on the property of its owner, a dangerous dog shall be confined indoors or, if kept outdoors, shall be kept in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature.
- (2) While off the property of its owner, a dangerous dog shall be kept on a leash and muzzled in such a manner so as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.
- (3) The owner shall produce satisfactory evidence of and post clearly visible signs warning both minors and adults of the presence of a dangerous dog on the owner's property.

- (4) The owner shall produce satisfactory evidence of, and shall permanently identify the dog by means of, a tattoo on the dog's inside thigh or by electronic implementation.
- (5) The owner of any dangerous dog shall obtain liability insurance coverage, in the amount of \$100,000.00 or greater, that covers bites. No license or license renewal shall be issued until the owner produces satisfactory evidence of such insurance.
- (6) The owner shall immediately, upon learning of the same, notify the police officer if the dangerous dog:
 - a. Is loose or unconfined;
 - b. Bites a person or attacks another animal;
 - c. Is sold, given away, or dies; or
 - d. Has been moved to a different location.
- (7) All dangerous dog registration certificates or renewals thereof required to be obtained under this division shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that all the requirements in this division and state law have been met. If a minor is the owner of a dangerous dog, the custodial parent or legal guardian shall be responsible for complying with all requirements established by this division.
- (8) In addition to the conditions and specifications established by this section with respect to dangerous dogs, the owner of any dangerous dog shall meet all other requirements established by this article for keeping any dog.
- (9) The police officer shall have the right to seize and impound the dog if any of the conditions and specifications established by this section for the keeping of a dangerous dog are not being met.

State Law reference— Control of dangerous dogs, § 3.2-6540, *Code of Virginia*, as amended.

Section 9-104 - Violations.

It shall be a Class 2 misdemeanor for the owner of any dog which has caused an injury to any person to conceal or cause to be concealed such dog from any police officer. It shall be a Class 2 misdemeanor for any willful violation of the requirements of this chapter by the owner of a dangerous dog.

Section 9-105 - Exceptions.

- (a) No dog shall be deemed or declared to be a dangerous dog if the threat, injury or damage was sustained by a person who was, at the time:
 - (1) Committing a crime upon the premises occupied by the dog's owner or custodian.
 - (2) Committing a willful trespass or other tort upon the premises occupied by the dog's owner or custodian.
 - (3) Provoking, tormenting or physically abusing the dog, or who can be shown to have repeatedly provoked, tormented, abused or assaulted the dog at other times.
- (b) No dog, which at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner's property, shall be found to be a dangerous

dog.

- (c) No police dog which is engaged in the performance of its duties at such time as the acts complained of shall be found to be a dangerous dog.
- (d) No dog shall be found to be a dangerous dog solely because of its particular breed.

Secs. 9-106—9-133 - Reserved.

DIVISION 4 - VICIOUS DOGS

Section 9-134 - Definitions.

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

“Serious injury” means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

“Vicious dog” means a canine or canine crossbreed that has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person; or
- (3) Continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

State Law reference — Vicious dogs, § 3.2-6540.1, *Code of Virginia*, as amended.

Section 9-135 - Determination of vicious dog.

Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a vicious dog shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered.

The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.2-6562, *Code of Virginia*, as amended. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of.

The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by

jury shall be as provided in § 19.2-260 et seq, *Code of Virginia*, as amended. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

Section 9-136 - Exceptions.

- (a) No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.
- (b) No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was:
 - (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.
- (c) No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog.
- (d) No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

Section 9-137 - Violations.

It is unlawful for any owner or custodian of a canine or canine crossbreed or other animal to through willful acts or omission in the care, control, or containment of a canine, canine crossbreed, or other animal which is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person. The provisions of this section shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

State Law reference— Similar provisions, § 3.2-6540.1, *Code of Virginia*, as amended.

Secs. 9-138—9-151 - Reserved.

ARTICLE III - LIVESTOCK AND OTHER FARM ANIMALS

Section 9-152 - Keeping of livestock; impounding and confiscation.

It shall be unlawful for any person to keep any livestock, including, but not limited to, cattle, horses, sheep, goats or swine, or to keep any fowl or rabbits within the Town, except in accordance with the provisions of this chapter. When a warrant has been obtained or a summons issued pursuant to this section, the police officer, his agent or any officer of the law may, in his discretion, enter onto private property and confiscate and impound the animal until such time as evidence shall be heard and a final verdict rendered in the matter. If the court finds any person to be in violation of this section, that person shall be responsible for payment to the Town of any expenses of confiscating and impounding

the animal pending disposition of the case at the rate prescribed by the Town Council. The court may, through its contempt power, compel any person to produce the animal for the police officer, his agent or any officer of the law.

State Law reference— Authority of town to regulate or prohibit keeping of animals and fowl, § 3.1-796.94:1, *Code of Virginia*, as amended.

Section 9-153 - Horseback riding prohibited; exceptions.

No person shall ride or lead a horse within the Town upon any public way or public property, except upon property which has been designated for that purpose by the Town Council. This section shall not apply to persons riding in parades or recognized civic events. A violation of this section shall be a Class 3 misdemeanor.

Secs. 9-154—9-180 - Reserved.

ARTICLE IV - BEES

Section 9-181 - Beehives prohibited.

It shall be unlawful for any person to keep or place a beehive within the limits of the Town.

Section 9-182 - Exceptions

The provisions of this article shall not apply to the keeping of bees within an educational institution, museum, physician's office, or laboratory for the purpose of study, observation or medical research or treatment, provided that such bees are not permitted to fly at large.

Secs. 9-183—9-206 - Reserved.

ARTICLE V - WILD, EXOTIC OR POISONOUS ANIMALS

Section 9-207 - Prohibition of keeping or exhibiting of wild, exotic or poisonous animals within the Town.

- (a) Permit required. It shall be unlawful for any person to keep or exhibit or permit to be kept or exhibited upon any property within the Town limits any wild, exotic and/or poisonous animal without a permit. In no case, however, shall any such wild, exotic and/or poisonous animal be exhibited, displayed or kept in such a manner so as to permit said animal to escape, be at large, or to otherwise come in direct physical contact with any person unless under direct care and control of the handler.
- (b) Permit application. The owner or custodian of any wild, exotic and/or poisonous animal shall apply to the Town Clerk within ten working days of acquisition of said animal, within ten working days of becoming a new resident of the Town, within ten working days of changing address within the Town, or, in the case of an exhibition, ten working days prior to the exhibition, for a permit authorizing the keeping of said animal within the Town limits. Each applicant for a wild, exotic or poisonous animal permit shall by affidavit provide the following:
 - (1) Name and street address of each owner.
 - (2) Location of animal storage.

- (3) The common name of the animal.
 - (4) The date of acquiring ownership.
 - (5) Any identifying marks of the animal.
 - (6) A statement of understanding signed by the owner concerning the laws and regulations involved with the said animal.
 - (7) At least one emergency phone number where the owner can be contacted in an emergency.
- (c) Nontransferability of permit. The permit shall not be transferable and shall be valid through December 31 of the year of issue and shall be renewed by January 31 of each subsequent year. Permits for temporary exhibits shall be valid for the time period specified in the permit. One permit per address will be required within Town limits.
 - (d) Permit in addition to state and federal regulations. The Town's wild, exotic and/or poisonous animal permit shall be required in addition to any state and federal regulations.
 - (e) Release of wild animals prohibited. It shall be unlawful to release any wild, exotic and/or poisonous animal into the wild.
 - (f) Fees. The initial fee of the permit administration shall be \$25.00 per address. A charge of \$15.00 will be collected for the annual permit renewal, the adding of additional animals to an existing permit, or the duplication of an existing permit.
 - (g) False information prohibited. It shall be unlawful for any person to furnish false information for the purpose of obtaining a permit. Any permit obtained under fraudulent pretenses shall be voided.
 - (h) Rejection of permit application.
 - (1) The Town Clerk may reject an application for a wild, exotic and/or poisonous animal permit, renewal of a permit or an addition to an existing permit for the following reasons:
 - a. Failure to comply or supply information required in subsection (b) of this section;
 - b. Falsification of any information required in subsection (b) of this section;
 - c. Previous or current violations of this section;
 - d. Previous or current violations of any local, state, or federal law relating to animals; or
 - e. The history or demonstration of a vicious or dangerous nature of an animal.
 - (2) Any town person whose application is rejected pursuant this subsection may appeal this decision to the Town Council.

State Law reference, generally, to the *Code of Virginia*, as amended — Comprehensive animal laws, § 3.2-6500 *et seq.*; offenses involving animals, §§ 3.2-6587, 3.2-6588, 3.2-6589, 18.2-403.1 *et seq.*; inoculation of companion animals against rabies, § 3.2-6521; cruelty to animals, § 3.2-6570; regulation of animals by municipalities, § 3.2-6544; diseased animals, dead animals, etc., §§ 18.2-323, 18.2-510; regulation of hunting and trapping by counties and cities, §§ 29.1-526, 29.1-528; hunting near public schools and public parks, § 29.1-527; estrays, § 55-202 *et seq.*

CHAPTER XII - ENVIRONMENT

ARTICLE I - IN GENERAL

Secs. 12-1—12-18 - Reserved.

ARTICLE II - NUISANCES

Section 12-19 - 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:

“Nuisance” shall be construed as the unlawful doing of any act or the omitting to perform any duty, which act or omission either injures or potentially endangers the health, morals or safety of others; or any act that substantially interferes with the rights of citizens to enjoyment of life and property.

Section 12-20 - Certain Nuisances Enumerated

The following acts when committed, or conditions when existing, within the Town are hereby defined and declared to be nuisances:

(a) All buildings, bridges, or other structures of whatever character which are in an unsafe, dangerous, or unsanitary condition.

(b) All public and private property which is grown up in weeds or bushes or upon which other unsightly and flammable materials have been allowed to accumulate.

(c) All trees which are unsafe, dangerous, unhealthy, injurious, or annoying to the public.

(d) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe, or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public, and all lots or parcels of land which due to their slope or configuration are conducive to the accumulation of stagnant waters or other noxious substances.

(e) All mosquito breeding areas in receptacles, containers or other vessels capable of holding water, within eight hundred (800) yards of buildings used for human habitation.

(f) Any dilapidated furniture, appliance, machinery, equipment, building material, or other item, which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition and which is not completely enclosed within a building.

The nuisances described in this section shall not be construed to be exclusive.

Section 12-21 - Prohibited; abatement.

(a) It shall be unlawful for any person to maintain or allow to exist any nuisance, as defined by this Chapter, or by any other statute or common law of the Commonwealth of Virginia, on any premises owned or occupied by him.

(b) The Town Council, law enforcement officers of the Town, or other designee(s) or authorized agent(s) of Town Council, are hereby vested with authority to require the abatement of any and all conditions in the Town which constitute a nuisance or which are detrimental to the public health, safety and morals of others. In the exercise of such authority, those representatives of the Town

shall have the right to enter upon and inspect any and all private property of whatsoever nature.

- (c) Any person found maintaining any nuisance or any offensive or unwholesome matter upon property either owned or occupied by him shall, upon notice from the Town Clerk or other authorized agent of Town Council, abate such nuisance in a manner to be approved by the authorized agent of Town Council within a period of five days after notice is given, and the failure to comply with such notice shall be deemed to constitute a separate violation of this section.
- (d) Any person who violates any provision of this section or maintains a nuisance or allows such nuisance to exist on his premises shall be guilty of a Class 3 misdemeanor, and each day's continuance of such violation or maintenance or existence of such nuisance shall constitute a separate offense. In addition thereto, upon conviction, if the nuisance is not abated by the owner or occupant, the judge shall cause such nuisance to be abated and shall direct a Town official or a police officer to enter upon the premises and eliminate such nuisance or remove the same, with the least possible cost or expense, which cost shall be charged to the defendant.
- (e) The cost to the Town of enforcing this section on private property shall constitute a lien on such private property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in §§ 58.1-3940 et seq., and 58.1-3965 et seq., *Code of Virginia*, as amended.

State Law reference— Power to have nuisances removed, collection of costs, § 15.2-1115, *Code of Virginia*, as amended; Abatement or removal of nuisances, § 15.2-1115, *Code of Virginia*, as amended.

Secs. 12-22—12-43 - Reserved.

ARTICLE III - RODENT CONTROL

Section 12-44 - 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:

“Hardware cloth” means wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rats and mice.

“Owner or manager.” Whenever any person is in actual possession of or has charge, care or control of any property within the Town, as executor, administrator, trustee, guardian or agent, such person shall be deemed and taken to be the owner of such property, within the true intent and meaning of this article, and shall be bound to comply with the provisions of this article to the same extent as the owner, and notice to any such person of any order or decision of the director of health shall be deemed and taken to be a good and sufficient notice, as if such person were actually the owner of such property, except that whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, roominghouse, junk yard, lumber yard or any other business under a single management, the person in charge of such business shall be considered the owner or manager.

“Rat harborage” means any place where rats live and nest without fear of frequent molestation or disturbance.

“Ratproof container” means a waterproof container of metal, plastic, or other composition, of a capacity not exceeding 35 gallons. Such containers are completely sealed or closed and are of sufficient durability to accommodate the intended use, considering the weather, and all factors consistent with cleanliness and health.

“Ratproofing” means the closing of openings in building foundations and openings under and around doors, windows, vents and other places, which could provide means of entry for rats, with concrete, sheet iron, hardware cloth or other types of ratproofing material approved by the director of health.

State Law reference— Rodent control, § 32.1-247, *Code of Virginia*, as amended.

Section 12-45 - Violations.

A violation or failure to comply with any of the provisions of this article shall constitute a misdemeanor on the following schedule:

- (1) First violation: Class 4 misdemeanor.
- (2) Second and further violation: Class 3 misdemeanor.

Section 12-46 - Right of entry to enforce article; abatement of violations.

- (a) Notwithstanding the duty placed on owners and managers of private property by other provisions of this article, the authorized agent of Town Council, shall have the authority, whenever, in his or her sound opinion, an emergency exists affecting or likely to affect the public health and reasonable need therefor appears, to enter and go upon any vacant and unimproved property, or into any abandoned or unoccupied building, and into any vacant building or structure which has been condemned and placarded by authorized officials, for the purposes of controlling or abating any condition on such property or in such building or structure which is known to constitute a rat harborage, a place for the feeding of rats or a route regularly used for the travel of rats on such property, and to cause such action to be taken on such property or in such building or structure as to effectively control or abate any condition found to exist contrary to any provisions contained in this article.
- (b) The authorized agent of Town Council shall give the owner of any property violating this article a written notice directing the owner to effectively control or abate any condition found to exist contrary to any provision contained in this article within ten days from the date of the notice.
- (c) The authorized agent of Town Council shall be authorized to promulgate policies, rules, and regulations with respect to the abatement, except that the establishment of fees shall be the responsibility of the Town Council. Such policies, rules, and regulations shall be intended to protect the public health, safety and welfare, to promote good sanitation and cleanliness, and to protect the environment and shall be enforceable as if fully set forth herein.
- (d) If the owner of any property fails to comply with a notice given pursuant to subsection (b) of this section, the authorized agent of Town Council may have any condition on private property mentioned in subsection (a) of this section be controlled or abated by agents or employees of the Town. The cost to the Town of controlling or abating any condition on private property mentioned in subsection (a) of this section shall constitute a lien on such private property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in §§ 58.1-3940 et seq., and 58.1-3965 et seq., *Code of Virginia*, as amended.

Section 12-47 - Elimination of rat harborages.

Whenever accumulations of rubbish, wood, boxes, lumber, scrap metal, car bodies or any other materials provide rat harborage, the person owning or in control of such materials shall cause the

materials to be removed or so stored so as to eliminate the rat harborage. Lumber, boxes and similar materials shall be neatly piled and such piles shall be raised at least one foot above ground. When the owner of the materials cannot be found, after reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal or proper piling of the materials.

Section 12-48 - Accumulations of materials serving as rat food.

No person shall place, or allow to accumulate, any materials that may serve as a food for rats in a site accessible to rats. Any waste material that may serve as food for rats shall be stored in ratproof containers.

Section 12-49 - Extermination.

Whenever rat holes, burrows or other evidence of rat infestation are found on any premises or in any building within the Town, it shall be the duty of the owner or manager of such property to exterminate the rats or to cause the rats to be exterminated. Within ten days after extermination, the owner or manager shall cause all of the rat holes or burrows in the ground to be filled with earth, ashes or other suitable material.

Section 12-50 - Ratproofing of buildings.

- (a) It shall be the duty of the owner or manager of any building in the Town to make such building reasonably ratproof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rats from entering the building through such window openings.
- (b) The owner or manager of any premises upon which sheds, barns, or similar buildings are located shall eliminate the rat harborages from within and under such buildings by ratproofing, raising the buildings above the ground, or by some other suitable method, or such sheds, barns, coops or other buildings shall be razed.

Secs. 12-51—12-69 - Reserved.

ARTICLE IV - DROUGHT MANAGEMENT

Section 12-70 - Purpose.

The purpose of this article is to provide for voluntary and mandatory restriction of use of the Town of Iron Gate's public water system during declared water shortages or water emergencies.

Section 12-71 - Scope.

This Article shall apply to all Town of Iron Gate residents and businesses which are served by the public water system.

Section 12-72 - Drought Response Plan.

The Upper James River Basin Drought Preparedness and Response Plan, adopted by resolution of Town Council on October 27, 2011, is in effect until specifically repealed by vote of Town Council.

Section 12-73 - Drought Indicators.

The indicators used to indicate drought severity shall be defined as those in the Upper James River Basin Drought Preparedness and Response Plan.

Section 12-74 - Drought Stages.

The drought stages shall be: Drought Watch; Drought Warning; and Drought Emergency; as determined by vote of Town Council, pursuant to the Upper James River Basin Drought Preparedness and Response Plan and State Water Control Board Regulation 9VAC25-780-120, “Drought Response and Contingency Plans.”

Section 12-75 - Declaration.

Upon notification to the Town Council that a drought stage exists, as defined in Section 12-104, the Town Council may issue a declaration of a drought stage. The Town Council may declare a drought stage in the absence of a declaration by any other authority. The Town Council must declare a drought stage upon such a declaration by the Commonwealth of Virginia.

Section 12-76 - Drought Stage Responses.

Upon declaration by the Town Council of a Drought Watch or Drought Warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Upper James River Basin Drought Preparedness and Response Plan. Upon declaration of a Drought Emergency, mandatory restrictions shall apply as set forth in the Plan.

Section 12-77 - Waiver of Restrictions.

Upon prior written request by an individual, business, or other water user, the Town Council, or its designee, may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally.

No waiver shall be granted by the Town Council or its designee unless the Town Council or its designee determines that the public health, safety, and welfare of the Town will not be adversely affected by the waiver. All waivers granted by the Town Council or its designee shall be reported at the Town Council’s next regular or special meeting.

Section 12-78 - Penalties.

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500). Each act or each day’s continuation of the violation shall be considered a separate offense.

Section 12-79 - Repeal of all prior Ordinances.

All prior Ordinances related to or involving drought management or water use restrictions, specifically including the Water Use Ordinance approved on February 28, 2008, are hereby repealed.

(Amends Drought Management Ordinance No. 10-2011.)

State Law reference— State Water Control law, §§ 62.1-44.15 and 62.1-44.38:1, *Code of Virginia*, as amended.

CHAPTER XVIII - SEWER ORDINANCE AND RATES

ARTICLE I - GENERAL

Section 18.1 - Purpose.

This ordinance sets forth uniform requirements for direct and indirect discharges into the wastewater collection and treatment system for the Town of Iron Gate and enables the Town to comply with all applicable State and Federal Laws required by the Clean Water Act of 1977 and the General Pre-treatment Regulations (40 CFR, Part 403).

Section 18.2 - Objectives.

The objectives of this Ordinance are:

- (a) To prevent the introduction of pollutants into the municipality wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters of the atmosphere or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
and
- (d) To provide for equitable distribution of the cost of the municipal wastewater system.

This ordinance provides for the regulation of direct and indirect discharges to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements of the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to the Town of Iron Gate and to persons outside the Town who are, by contract or agreement with the Town, users of the Town Sewer System.

Section 18.3 - Definitions.

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

“Act” or “the Act” means the Federal Water Pollution Control Act, also know as the Clean Water Act, as amended, 33 U.S.C. § 1251, *et seq.*

“Approving Authority” means the Town Council or its duly authorized representative.

“BOD (Biochemical Oxygen Demand)” is the quantity of oxygen, by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade.

“Building Sewer” means the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

“Capital Costs” means a sum sufficiently recovered by user charges computed by using the capital recovery factor for the average life of all capital items including capitalized Operation and Maintenance (O&M) charges (unless collected separately) on which expenditures have been made or will have to be made for wastewater conveyance and/or treatment facilities. Capital costs may be adjusted from time to time to reflect costs experience.

“COD (Chemical Oxygen Demand)” is the measure, expressed in mg/l, of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater, expressing the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

“COD/BOD Ratio” is the ration of the value of COD to BOD as these values are defined above.

“COD (Soluble)” is the COD of the filtrate from wastewater that is filtered through a Gooch Crucible in accordance with the technique for suspended solids as contained in “Standard Methods.”

“Composite Sample” is the accumulation of a number of individual samples collected over a period of time, so taken as to be more representative to the wastewater character than individual grab samples.

“Control Manhole” is a manhole which provides access to a building sewer discharge at some point prior to mixing with other sewer discharges.

“Control Point” is a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

“Domestic Wastewater” is wastewater derived principally from dwellings, business buildings, and institutions, exclusive of industrial wastewater. Generally characterized by BOD and total suspended solids concentrations less than equal to 260 mg/l for each constituent. (*See Normal Wastewater*).

“Effluent” is the treated flow discharged from a wastewater treatment facility.

“Garbage” is animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

“Grab sample” means a sample which is taken from a wastewater stream on a one-time basis

with no regard to the flow in the wastewater stream and without consideration of time.

“Incompatible waste” is a liquid or solid waste which cannot be adequately treated by the wastewater treatment facility.

“Industrial user” is any non-governmental user of publicly owned treatment works which discharges industrial wastewater into the wastewater treatment facilities.

“Industrial waste” is wastewater resulting from any process of industry, manufacturing, trade, or business as distinguished from normal domestic wastewater.

“Infiltration” is groundwater which enters a sewer system, including service connections, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from inflow.

“Inflow” is water discharged into a sewer system, including service connections, from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs, and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, stormwaters, surface runoff, street wash waters, or drainage. It does not include, and is distinguished from infiltration.

“Influent” is the wastewater received at the wastewater treatment facility.

“Natural outlet” is any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater.

“Normal wastewater” is wastewater discharged into the sanitary sewers in which the average concentration of total suspended solids or BOD is not more than 260 mg/l, except those materials expressly excluded under Articles 3, 4 and 5.

“Overload” means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

“Persons” includes any individual, corporation, organization, government or governmental subdivision or agency, business trust, estate trust, partnership association, or any other legal entity.

“pH” is the logarithm (Base 10) of the reciprocal of the weight of hydrogen concentration expressed in grams per liter of solution.

“Phosphorus (Total) is the sum of the various types of phosphate expressed as elemental phosphorus found in wastewater. The various forms include orthophosphate, condensed phosphates (Pyro-, and phosphates), and organically bound phosphates. The concentration of total phosphate is to be determined by the “Standard Methods” test procedure.

“Public sewer” means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the Town.

“Sanitary sewer” is a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

“Slug” is any discharge of water, wastewater or industrial wastes which in concentration of any given constituent or in quantity of low, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

“Standard methods” means the examination and analytical procedures set forth in the latest edition, at the time of analysis of “Standard Methods for the Examination of Water and Wastewater” as prepared, approved, and published jointly the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

“Storm sewer” means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentional passed.

“Storm water” means rainfall and any other forms of precipitation.

“Suspended solids” means solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.

“To discharge” includes to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

“Total Kjeldahl Nitrogen” is the combined ammonia and organic nitrogen in a given wastewater as measured by the “Standard Methods” test procedure. It does not include nitrite and nitrate nitrogen.

“Town” means the Town of Iron Gate, Virginia, or any authorized person acting in its behalf.

“Trap” is a device designated to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

“Unpolluted wastewater” is water containing:

- a. No free or emulsified grease or oil
- b. No acids or alkalis
- c. No phenols or other substances producing taste or odor in receiving water
- d. No toxic poisonous substances in suspension, colloidal state, or solution
- e. No noxious or otherwise obnoxious or odorous gases
- f. Not more than 260 mg/l each of suspended solids and BOD

“User charge” is the charge applied to those persons who discharge normal wastewater into the town’s sewage system. This charge shall include a proportionate share of any capital improvements to the system.

“Users surcharge” is the charge applied, in excess of the user charge, for all wastewater over and above the loading defined as normal domestic wastewater.

“Waste” means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural or industrial activities.

“Wastewater” is a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground surface, and storm water that may be present.

“Wastewater facilities” includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

“Wastewater treatment facilities” means any town owned facilities, devices, and structures used for receiving, processing and treating wastewater and industrial waste from the sanitary sewers.

“Wastewater service charge” is the charge on all users of the public sewer whose wastes is treated and is the appropriate sum of the sewer charge and user surcharge.

“Watercourse” is a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

Secs. 18-4—18-10 - Reserved.

ARTICLE II - SEWER CONNECTION REQUIREMENTS, FEES, USER CHARGES, PENALTIES AND RESPONSIBILITIES.

Section 18.11 – Connections.

When a town sewer line is installed along any street or alley in the Town of Iron Gate, the owner or tenant of any abode, place of habitation or commercial business bordering on such street or alley shall have such abode, place of habitation or commercial business connected to such sewer main by making application and paying the tapping fee prescribed herein.

Private lateral sewer lines installed within the town corporate limits shall be of PVC SDR-35 or better (Schedule 40) or ASTM D303r with an inside diameter of four (4) inches or greater.

Section 18.12 – New Building Connections.

All builders of homes, home owners, trailer owners and commercial building owners who connect to either an existing sewer lateral or a new lateral onto the town sewage system shall:

- (a) Pay a six hundred dollar (\$600) tapping fee for four (4) inch service; for services larger than four (4) inches the fee shall be actual cost plus ten percent (10%).
- (b) Install lateral from owners building to property line. The town will make the tap and install and

maintain line to the owners' property line. If the distance from the tap point to the property line exceeds thirty (30) feet the property owner shall pay the cost of the portion that exceed thirty (30) feet.

- (c) Consult the Town Clerk prior to installing lateral so the town may determine the most economical and/or convenient routing of the lateral to the sewer main tap point.
- (d) Have all new or replaced laterals inspected by the town prior to cover-up.
- (e) Pay the cost of any boring under or cutting across roads and cost of manhole if needed. No more than one dwelling apartment or commercial business shall be connected to the same tap or lateral.
- (f) Maintain building lateral in a suitable operation condition acceptable to the town. Groundwater infiltration which enters the sewer system through such mains as, but not limited to, defective pipes, pipe joints or connections will not be permitted. Infiltration does not include, and is, distinguished from inflow.
- (g) Should a water service be discontinued by the Town for non-payment and/or by the owner or tenant of any dwelling, abodement, apartment, or business for one (1) year from using the services, the Town has the right to disconnect the services from the Town's lines and there will be a new tap fee applied to have the sewer service restored.

Section 18-13 - Separation of Sewer and Water Lines.

If water lines and sewer lines intersect or cross there shall be a vertical separation of eighteen (18) inches from bottom of water line to the top of sewer line. Where possible, water and sewer lines shall be separated by at least ten (10) feet when laid parallel.

Section 18-14 - Other than Normal Domestic Wastewater.

All users discharging other than normal domestic wastewater shall have their user charges computed as described under Article XIX.

Section 18-15 - Discontinued Services.

It shall be unlawful for any owner, lessee or tenant whose water services has been discontinued by the town, to discharge, empty or dump or cause to be discharged, emptied or dumped, any domestic sewage or industrial waste into the Town sewer system or sewage disposal works. Any owner, lessee or tenant violating the provision of this paragraph shall, upon conviction thereof, be fined not less than one hundred dollars (\$100). Each day's continuance of such violation shall constitute a separate offense. Such conviction shall not relieve any such owner, lessee or tenant from the payment of the sewage disposal service charges imposed by the provision of this ordinance.

Secs. 18-16—18-24 - Reserved.

ARTICLE III - GENERAL DISCHARGE PROHIBITIONS

Section 18-25 – Discharge of Pollutants.

No user shall discharge or cause to be discharged, directly or indirectly, a pollutant or wastewater which will interfere with the operation or performance of the Town Sewer System. These general prohibitions apply to all such users whether or not the user is subject to National Categorical Pre-treatment Standards or any other National, State, or Local Pre-treatment Standards or requirements.

No user shall contribute the following substances to the town sewer system:

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewer system or to its operation. At no time, shall two successive readings on any explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Prohibited materials include, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Town, the State or EPA has notified the user is a fire hazard or a hazard to the system

(b) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or any sufficient to prevent entry into the sewers for maintenance and repairs

(c) Any substance which may cause the effluent or any other product of the sewer system such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged into the sewer system cause the system to be in non-compliance with sludge use or disposal criteria.

Secs. 18-26—18-30 - Reserved.

ARTICLE IV - CHEMICAL DISCHARGES

Sections 18-31 – Prohibition of Chemical Discharges.

Discharges into public sewer shall not contain:

- (a) Fluoride other than that contained in the public water supply
- (b) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive
- (c) Any substance causing a Chemical Oxygen Demand (COD) greater than 1,000 mg/l
- (d) Strong acid or concentrated plating solutions whether neutralized or not

- (e) Fats, wax, grease or oils, whether emulsified or not, in excess of two hundred and forty (240) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (0 degrees and 65 degrees Centigrade)
- (f) Obnoxious, toxic, or poisonous solids, liquids, gases or radioactive wastes or isotopes
- (g) Waste, wastewater, nor any other substance having a pH lower than 5 or higher than 9.5, nor any other substance with a corrosive property capable of causing damage or hazard to structures, equipment, and personnel at the wastewater treatment facility.
- (h) Waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and odor producing substances that have not been minimized. After treatment of the composite wastewater, effluent concentration limits shall not exceed the requirements established by State, Federal, or other agencies with jurisdiction over discharges to receiving waters.

Secs. 18-32—18-34 - Reserved.

ARTICLE V - HEAVY METALS AND TOXIC MATERIALS

Section 18-35 – Discharge of Heavy Metals and Toxic Materials.

Discharges shall not contain concentrations of heavy metals or pre-treatment limits greater than amounts specified in Section 18-36 of this Article.

Section 18-36 – Maximum Allowable Concentrations

The maximum allowable concentrations of pollutants and pre-treatment limits stated in terms of milligrams per liter (mg/1), as determined on the basis of individual sampling in accordance with “Standard Methods” are:

(a)	Fluoride	No addition
(b)	Gas Naptha Benzene etc.	Prohibited
(c)	COD	1,000 mg/1
(d)	Strong Acid/Base	
(e)	Oil and Grease	240 mg/1
(f)	pH	5 to 9.5
(g)	Temperature	>150 degrees Fahrenheit
(h)	Suspended Solids	250 mg/1
(i)	BOD	260 mg/1
(j)	Phosphorous	10 mg/1

In addition, if it is determined that any one of these parameters, exceeds the state effluent requirements for wastewater treatment plant, an adjustment in the given parameter concentration limit will be required. To accomplish this, the discharge permit for industries discharging the particular compound will be adjusted to insure compliance.

Section 18-37 – Permit required.

No other heavy metals or toxic materials shall be discharged into public sewers without a permit from the Town of Iron Gate specifying conditions of Pre-treatment, concentrations, volumes, and other applicable provisions.

Section 18-38 – Prohibited Heavy Metals and Toxic Materials.

Prohibited heavy metals and toxic materials include but are not limited to: Antimony, Beryllium, Bismuth, Cobalt, Molybdenum, Uranium, Rhenium, Strontium, Tellurium, Herbicides, Fungicides, Pesticides.

Secs. 18-39—18-40 - Reserved.

ARTICLE VI – GARBAGE

Section 18-41 – Garbage Disposal Prohibited.

No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half (1/2) inch in dimension are prohibited.

Section 18-42 – Approval of Garbage Grinders.

The Town of Iron Gate reserves the right to review and approve the installation and operation of any garbage grinder equipped with a motor of three fourths (¾) horsepower (0.76hp metric) or greater.

Secs. 18-43—18-44 - Reserved.

ARTICLE VII - STORM WATER AND OTHER UNPOLLUTED DRAINAGE

Section 18-45 – Unpolluted Drainage Prohibited.

No person shall discharge into public sanitary sewers:

- (a) Unpolluted storm water, surface water, ground-water, gutter down spouts, roof runoff, sump water, subsurface drainage or water from swimming pools or hot tubs;
- (b) Unpolluted cooling water;
- (c) Unpolluted industrial process water; or
- (d) Other unpolluted drainage.

Section 18-46 – Designation of Watercourses for Unpolluted Drainage.

The Town of Iron Gate shall designate those storm sewers and other watercourses into which unpolluted drainage described in Section 18-45 of this Chapter may be discharged.

Secs. 18-47—18-50 - Reserved.

ARTICLE VIII - TEMPERATURE

Section 18-51 - Regulation of Temperature of Discharge.

No person shall discharge liquid or vapor having a temperature higher than one hundred (100) degrees Fahrenheit (40 degrees centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to one hundred four (104) degrees Fahrenheit.

Secs. 18-52—18-54 - Reserved.

ARTICLE IX - RADIOACTIVE WASTES

Section 18-55 - Discharge of Radioactive Wastes Prohibited.

No person shall discharge radioactive wastes or isotopes into the public sewer without the permission of the Town of Iron Gate.

Section 18-56 - Right to Establish Regulations.

The Town of Iron Gate reserves the right to establish, in compliance with applicable State and Federal regulations for discharge of radioactive waste into public sewers.

Secs. 18-57—18-60 - Reserved.

ARTICLE X - IMPAIRMENT OF FACILITIES

Section 18-61 - No Impairment of Facilities Allowed.

No person shall discharge into public sewers any substance capable of causing:

- (a) Obstruction of the flow in sewers;
- (b) Interference with the operation of treatment processes or facilities; or;
- (c) Excessive organic and/or hydraulic loading of treatment facilities.

Section 18-62 - Prohibited Discharges.

Discharges prohibited by Section 18-61 include, but are not limited to, materials which exert or cause concentrations of:

- (a) Inert suspended solids greater than 250 mg/l including, but not limited to Fuller's Earth lime

slurries and lime residues.

- (b) Dissolved solids greater than 500 mg/1 including but not limited to sodium chloride and sodium sulfate.
- (c) Excessive discoloration including but not limited to dye wastes and vegetable tanning solutions.

NOTE: Industries having wastewater of this nature shall provide pre-treatment as required by the Town of Iron Gate.

Section 18-63 – Discharge of Grease, Oil, or Fatty Substances.

No person shall discharge into public sewers any substance that may:

- (a) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
- (b) Overload skimming and grease handling equipment;
- (c) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the non-amenability of the substance to bacterial action; or
- (d) Deleteriously affect the treatment process due to excessive quantities.

Section 18-64 – Discharges of Incompatible Wastes Prohibited.

No person shall discharge incompatible waste into public sewers which:

- (a) Is not amenable to treatment or reduction by the wastewater treatment processes and facilities employed; or
- (b) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

Section 18-65 – Regulation of Slugs.

The Town of Iron Gate shall regulate the flow and concentration of slugs when they may:

- (a) Impair the treatment process;
- (b) Cause damage to collection facilities;
- (c) Incur treatment costs exceeding those for normal wastewater; or,
- (d) Render the waste unfit for stream disposal or industrial use.

Section 18-66 – Notification of Industrial Slugs.

Industrial operations which on occasion release sludges of waterborne wastes into the sewers, or which, on occasion, release any significant quantities of materials which adversely influence the effectiveness of treatment in the wastewater treatment plant shall notify the Town in advance of their release, and shall control (at the discretion of the Town) the rate of release of these wastes. Permission for such planned releases shall not be unreasonably withheld.

Persons failing to comply with these requirements shall be subject to a fine of not more than five thousand dollars (\$5,000) per incident, and shall, also, be liable for the payment of any damages caused either directly or indirectly by the unapproved discharges.

Section 18-67 – Discharge of Solid or Viscous Substances Prohibited.

No person shall discharge into public sewers solid or viscous substances which violate Section 18-61 of this Chapter if present in sufficient quantity or size, including, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and flashings, entrails, paper products, either whole or ground by garbage grinders, slops, chemical residues, paint residues, or bulk solids.

Section 18-68 – Excessive Discharges and/or Dilutions Prohibited.

No users shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pre-treatment Standards, or in any other pollutant-specific limitation developed by the Town or State.

Section 18-69 – Accidental Discharges.

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the Town of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions taken.

Section 18-70 – Written Notice of Accidental Discharges.

Within five (5) days following an accidental discharge the user shall submit to the Town a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences.

Secs. 18-71—18-80 - Reserved.

ARTICLE XI – COMPLIANCE WITH EXISTING AUTHORITY

Section 18-81 – Use of Public Sewer System Required.

Unless exception is granted by the Town of Iron Gate the public sewer system shall be used by all persons discharging: wastewater, industrial waste, polluted liquids, or unpolluted waters or liquids.

Section 18-82 – Alternative Means of Disposal Prohibited.

Unless authorized by the Virginia State Health Department and/or State Water Control Board, no person shall deposit or discharge any waste included in Section 18-81 of this Chapter in or adjacent to any: natural outlet, watercourse, storm sewer, or other area within the jurisdiction of the Town.

Section 18-83 – Determination of Treatment.

The Town of Iron Gate shall determine, prior to discharge, that wastes to be discharged will

receive such treatment as is required by the laws, regulations, ordinance, rules and orders of Federal, State and Local authorities, or such discharges shall not be permitted.

Secs. 18-84. - Reserved.

ARTICLE XII – APPROVING AUTHORITY REQUIREMENTS

Section 18-85 – Town’s Authority to Regulate Discharges.

If discharges or proposed discharges into public sewers may deleteriously affect wastewater facilities, processes, equipment, or receiving waters; create a hazard to life or health; or create a public nuisance: the Town of Iron Gate shall require pre-treatment to an acceptable condition before discharge to the public sewers; control over the quantities and rate of discharge; and payment to cover the cost of handling and treating the waste, in addition to all other costs incurred.

Section 18-86 – Town’s Right to Determine Regulated Discharges.

The Town of Iron Gate reserves the right to determine whether a discharge or proposed discharge is included under Section 18-85 of this Chapter.

Section 18-87 – Town’s Authority to Reject Wastes.

The Town of Iron Gate shall reject wastes when it determines that a discharge or proposed discharge is included under Section 18-85 of this Chapter and the discharge does not meet the requirements of Section 18-85 of this Chapter.

Secs. 18-88—18-90 - Reserved.

ARTICLE XIII – APPROVING AUTHORITY REVIEW AND APPROVAL

Section 18-91 – Town’s Authority to Approve Pre-treatment and Control Methods.

If pre-treatment or control is required, the Town of Iron Gate may, at its sole discretion, require, review and approve design and installation of equipment and processes.

The design and installation of equipment and processes shall conform to all applicable statutes, codes, ordinances and other laws.

Section 18-92 – Expense of Control Facilities

Any person responsible for discharges requiring pre-treatment, flow equalization, or other facilities shall provide and maintain the facilities in effective operation condition at his own expense, in accordance with Virginia Water Control Board regulation No. 6, Subpart G, Pre-treatment Program.

Secs. 18-93—18-94 - Reserved.

ARTICLE XIV – REQUIREMENTS FOR TRAPS

Section 18-95 – Discharges Requiring a Trap.

Discharges requiring a trap shall include grease or waste containing grease in excessive amount, oil, sand, flammable wastes, and other harmful ingredients.

Section 18-96 – Trap Design and Construction.

Any person responsible for discharges requiring a trap shall at his own expense and as required by the Town of Iron Gate:

- (a) Provide equipment and facilities of a type and capacity approved by the Town of Iron Gate;
- (b) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
- (c) Maintain the trap in effective operation condition.

Secs. 18-97—18-100 - Reserved.

ARTICLE XV – MEASUREMENT OF WASTES

Section 18-101 – Certified Statements of Wastes Required.

The owner of each facility discharging other than normal domestic wastewater shall submit monthly or at such other frequency as may be required by the Town, on forms supplied by the Town, a certified statement of the quantities of its wastes discharged into the sewers and sewage works of the Town or into any sewer connected therewith.

Copies of pertinent water bills may be required to be submitted with the above statement. Such documents shall be filed with the Town not later than the tenth day of the following month.

A separate statement shall be filled for each industrial plant.

Section 18-102 – Requirements of Statements.

The total quantities of wastes to be measured and certified by the person so discharging shall be established by the Town of Iron Gate and shall, as a minimum, include:

- (a) Liquid in gallons;
- (b) Five-day BOD in pounds;
- (c) Total suspended solids in pounds, on a dry solid basis;
- (d) Total Phosphorus in pounds;
- (e) Total Kjeldahl Nitrogen in pounds;
- (f) COD in pounds.

Section 18-103 – Standard Methods of Measurement Required.

Unless otherwise provided, each measurement, test, sampling, or analysis required to be made hereunder shall be made in accordance with the latest edition of “Standard Methods for Examination of

Water and Wastewater”, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Section 18-104 – Sampling Chambers Required.

In order to provide for accurate sampling and measurement of industrial waste, the discharger shall maintain, on each industrial waste outlet sewer, a large manhole or sampling chamber to be located outside of near the plant boundary line where feasible. If inside the industrial plant fence, there shall be a gate near the sampling chamber with a key furnished to the Town.

There shall be ample room provided in each sampling chamber to enable convenient inspection and sampling by the Town. The industrial user shall provide and install the required sampling equipment and chamber at no cost to the Town of Iron Gate.

Section 18-105 - Liquid Quantity Measurement.

Each sampling chamber shall contain a Parshall Flume, accurate weir, or similar device, with a recording and totalizing register for measurement of the liquid quantity. The metered water supply to the industrial plant may be used as the liquid quantity where it is substantiated that the metered water supply and wastewater flows as approximately the same, or where a measurable adjustment can be made in the metered supply to determine the liquid quantity.

However, if the plant uses a water supply other than or in addition to the metered water supply, the owner shall provide for and supply liquid quantity measurements of all its wastes, normal domestic and industrial waste discharged into the sewers and sewage works of the Town or any sewer connected therewith.

Section 18-106 – Sampling.

- (a) Samples shall be taken every hour, properly refrigerated and composite in proportion of the flow for a representative 24-hour sample. Such sampling shall be repeated on as necessary to insure representative quantities for the entire reporting period. Industrial plants with wide fluctuation in quantities of wastes, will require an automatic sample paced automatically by the flow-measuring device.
- (b) Minimum requirements for representative quantities shall include reevaluation during each twelve month period. The determination of representative quantities shall include not less than one (1) 24-hour composite sampling taken each week during periods of normal operation, together with acceptable flow measurements.
- (c) The frequency of sampling, sampling methods, and analyses of samples shall be established at the discretion of the Town.
- (d) Sampling and measuring facilities shall provide safe access for authorized personnel of the Town to properly maintain and operate the facilities.

- (e) Plans for sampling chambers, with their locations shown on a site plan shall be submitted to the Town for its approval prior to installation.

Secs. 18-106—18-110 - Reserved.

ARTICLE XVI - PERMITS AND CONDITIONS FOR INSURING SAME

Section 18-111 - Designation of Alleghany County as Town's Agent.

Alleghany County, as an agent designated by the Town of Iron Gate shall, with it sole discretion, grant a discharge permit to industrial users who meet the criteria of this Article XVI provided that the industry:

- (a) Not requiring pre-treatment:

Submits an application within sixty (60) days after the effective date of this ordinance on forms supplied by the Town of Iron Gate. The Town will process the application within thirty (30) days.

The Town of Iron Gate designates Alleghany County as the agent of the Town of Iron Gate for the purpose of implementation and enforcement of the Town of Iron Gate's sewer use ordinance against/for industrial users located in the Town of Iron Gate. Alleghany County may take any action under the Town of Iron Gate's sewer use ordinance that could have been taken by the Town of Iron Gate, including the enforcement of the ordinance in courts of law.

- (b) Requiring pre-treatment:

Submits a permit application within sixty (60) days after the effective date of this ordinance on forms supplied by the Town. The industry will receive approval or disapproval of plans and specifications by the Town for pre-treatment facilities within thirty (30) days.

The industrial user must terminate discharge until an approval permit application is received.

The pre-treatment facilities must be constructed within one hundred eighty (180) days from the approval of the permit application.

Section 18-112 - Permits Duration.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reassurance a minimum of 180 days prior to the expiration of the user's existing permit.

The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for

compliance.

Section 18-113 – Permit Transfer.

Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

Section 18-114 – Compliance Date Report.

Within ninety (90) days following the date for final Compliance with applicable Pre-treatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the public sewer, any user subject to Pre-treatment Standards and Requirements shall submit to the Town a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pre-treatment Standards and Requirements and the average and maximum daily flow for these process units in the user facility which are limited by such Pre-treatment Standards or Requirements.

The report shall state whether the applicable Pre-treatment Standards or Requirements are being met on a consistent basis and, if not, what additional operations and maintenance and/or Pre-treatment is necessary to bring the user into compliance with the applicable Pre-treatment Standards or Requirements.

This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

Section 18-115 - Periodic Compliance Reports.

Any user subject to a Pre-treatment Standard, after the compliance date of such Pre-treatment Standard, or, in the case of a New Source, after commencement of the discharge into the public sewer, shall submit to the Town during the months of June and December, unless required more frequently in the Pre-treatment Standard or by the Town, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pre-treatment Standards.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the Town and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Town may agree to alter the months during which the above reports are to be submitted.

Section 18-116 – Imposition of Mass Limitations.

The Town may impose mass limitation on users which are using dilution to meet applicable Pre-treatment Standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 18-115 of this Chapter shall indicate the mass of pollutants regulated by Pre-treatment Standards in the effluent of the user.

These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Town, of pollutants contained therein which are limited by the applicable Pre-treatment Standards. The frequency of monitoring shall be prescribed in the applicable Pre-treatment Standards.

All analysis shall be performed in accordance with procedures established by the Town pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Town.

Sampling shall be performed in accordance with the techniques approved by the Town. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA Publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants" (April 1977), and amendments thereto, or with any other sampling and analytical procedures approved by the Town.

Secs. 18-117—18-130 - Reserved.

ARTICLE XVII - PAYMENT AND AGREEMENT REQUIRED

Section 18-131 - Industrial Waste Surcharge.

Persons making discharges of industrial waste shall pay a charge to defray the operating costs for collection and treatment in addition to capital costs.

Section 18-132 - Permit Requirements.

When a permit application for industrial waste is approved, the Town or its authorized representative shall issue a permit stating terms of acceptance by the Town, and the basis of payment.

Secs. 18-133—18-134 - Reserved.

ARTICLE XVIII - USER CHARGES AND ADDED COST

Section 18-135 - Basic Fees.

If the volume or character of the waste to be treated by the Town meets requirements of other provisions of this ordinance and does not cause overloading of the sewage collection, treatment, or disposal facilities of the Town, the permit authority shall require that the discharger pay a charge to be determined from the Schedule of Charges and fees which include capital costs.

Section 18-136 - Excessive Waste Fees.

If a proposed discharge of waste is responsible for exceeding the existing capacity of the wastewater treatment facilities and the wastewater treatment plant must be upgraded, expanded, or enlarged in order to treat the wastewater, the Town shall require that the discharger pay in full all added

costs which shall include capital costs the Town may incur due to the acceptance of the wastewater.

Section 18-137 – Schedule of Charges and Fees.

The Schedule of Charges and Fees pursuant to Section 18-135 of this Chapter shall include, but not be limited to:

- (a) Capital costs including debt retirement and interest on debt of Town's cost on all capital outlays for collecting and treating the waste, including new capital outlay and the proportionate part of the value of the existing system used in handling and treating waste; and
- (b) Operation and maintenance costs (capitalized) including but not limited to salaries and wages, power cost, costs of chemicals and supplies, proper allowance for maintenance, depreciation, overhead, and office expense.

Secs. 18-137—18-140 - Reserved.

ARTICLE XIX – SCHEDULE OF CHARGES AND FEES

Section 18-141 – Requirement to Pay.

Persons discharging wastewater shall pay a charge to cover the capital cost and the cost of collection and treatment of all wastewater discharged; other subscribed localities are expected to collect and remit as appropriate to the Town these charges.

Section 18-142 – Normal Domestic Wastewater Charges.

All users discharging normal domestic wastewater shall pay a user charge computed upon cost per volume of wastewater discharged as established in Addendum A, "Schedule of Charges and Fees."

Section 18-143 – Other than Normal Wastewater Charges.

All users discharging other than normal domestic wastewater shall have their user charge computed upon a cost per unit volume basis for the base amount plus the unit cost of treatment for all quantities over the base amount for volume, biochemical oxygen demand (BOD), suspended solids (SS), Phosphorus (P), and total Kjeldahl nitrogen (N).

In computing the contaminant loading, the parameter concentration for normal domestic wastewater will be considered as standard strength in determining the base amount in the effluent discharge flow. The responsibility for determining the contaminant loading for each category of establishment will be that of the Town. However, the sampling and analysis costs required to verify the contaminant loading for each establishment shall be factored into the monthly user surcharges.

Section 18-144 – Determination of Unit Costs.

The unit costs to be used to compute the charges for normal domestic wastewater and industrial wastewater shall be established by the Town.

The unit cost for all users and the allowances for normal domestic wastewater for users may be revised as necessary to correspond to current costs and expenses. Revisions may be made, no more often than once a year, upon approval of the Town of Iron Gate.

Secs. 18-145—18-150 - Reserved.

ARTICLE XX - ADJUSTMENT OF CHARGES

Section 18-151 – More Than Annual Adjustments Allowed.

The Town of Iron Gate may adjust charges at least annually to reflect charges in the characteristics of wastewater based on the results of sampling and testing.

Section 18-152 – Annual Review Required.

The Town shall review at least annually the basis for determining charges and shall adjust the unit treatment cost to reflect increases and decreases in wastewater treatment cost based on the previous year's experience.

Section 18-153 – Billing.

The Town may bill the discharger by the month or by the quarter and shall show waste charges as a separate item on the regular bill for water and sewer charges.

The discharger shall pay in accordance with practices described in Addendum A, "Schedule of Charges and Fees."

Section 18-154 – Public Hearings Required.

Two (2) public hearings will be advertised and held prior to any rate increases.

Section 18-155 – Individual Bill Adjustments.

Any adjustment on a sewer charge may be presented to Town Council at a regular Town Council meeting for their approval by a written request.

Secs. 18-156—18-160 - Reserved.

ARTICLE XXI - AUTHORITY TO ENTER PROPERTY

Section 18-161 – Town Agents Allowed to Enter Property.

Duly authorized employees of the Town, bearing proper credentials and identification, are entitled to enter any public or private property at any reasonable time to inspect, sample or measure wastewater or wastewater treatment or conveyance facilities and records.

Section 18-162 – Town Agents Required to Follow Rules and Regulations.

Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

Section 18-163 – Town's Indemnity for Loss or Damage.

Except when caused by negligence or failure of the customer to maintain safe conditions, the Town shall indemnify the customer against loss or damage asserted against the customer and growing out of the sampling operation.

Section 18-164 – Protection of Intellectual Property.

No person acting under authority of this provision may inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries, beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

Section 18-165 – Smoke Tests Allowed.

The Town shall at their discretion smoke test the town's sewer lines to determine any suspected leaks in the sewer lines. Should there be a leak detected on private property from the smoke testing, the Town has the right to enter on the property to locate the leak and advise the user of the leak on the property. The repairs to the leak will be at the cost of the property owner. Notice from the Town will be given prior to any smoke testing.

Secs. 18-166—18-170 - Reserved.

ARTICLE XXII - ENFORCEMENT

Section 18-171 – Harmful Contributions.

The Town may suspend the wastewater treatment service and/or a Wastewater Discharge Permit when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the public sewer system or causes the Town to violate any conditions of its Clifton Forge/Iron Gate Treatment Contract, or any agreement with Alleghany County.

Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate the Discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the public sewer system or endangerment to any individuals.

The Town shall reinstate the Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful discharge and the measures taken to prevent

any future occurrence shall be submitted to the Town within fifteen (15) days of the date of occurrence.

Section 18-172 – Revocation of Permit.

Any user who violates the following conditions of this Ordinance, or applicable State and Federal regulations, is subject to having his Permit revoked in accordance with the procedures this Ordinance:

- (a) Failure of the user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (c) Refusal of reasonable access to the user’s premises for the purpose of inspection or monitoring;
or
- (d) Violation of conditions of the permit.

Section 18-173 - Notification of Violation.

Whenever the Town finds that any user has violated or is violating this Ordinance, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the Town may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the user. The Town reserves the right to specify the time required to obtain satisfactory compliance depending on the amount of environmental degradation occurring as a result of the violation.

Section 18-174 – Show Cause Hearing.

The Town may order any user who causes or allows an unauthorized discharge to enter the public sewer system to show cause before the Town Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Town Council why the proposed enforcement action should not be taken.

The notice of the hearing shall be served at least 10 (ten) days before the hearing. Service may be made on any agent or officer of a corporation. After the Town Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities are properly operated.

Further orders and directives as are necessary and appropriate may be issued.

Section 18-175 – Legal Action.

If any person discharges sewage, industrial wastes or other wastes into the Town's wastewater disposal system contrary to the provisions of this Ordinance, Federal or State Pre-treatment Requirements, or any other Ordinance of the Town, the Town Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of the County.

Secs. 18-175—18-180 - Reserved.

ARTICLE XXIII - PENALTY; COSTS

Section 18-181 - Civil Penalties.

Any user who is found to have violated an Order of the Town Council or who willfully or negligently failed to comply with any provision of this Ordinance, and shall be fined not less than one hundred dollars (\$100) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules, regulations, and permits issued hereunder.

Section 18-182 - Falsifying Information.

Any person who knowingly makes any false statements, representations, or certifications of any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for a period of time to be determined by the court, not more than twelve (12) months, or both.

Secs. 18-183—18-184 - Reserved.

ARTICLE XXIV - MISCELLANEOUS PROVISIONS

Section 18-185 - Severability.

If any provision, paragraph, work, section or article of this Ordinance is invalidated by any Court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 18-186 - Conflicts.

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

ADDENDUM A
Schedule of Charges and Fees

NOW THEREFORE BE IT ORDAINED that sewer charges for normal domestic wastewater be based on the billed water consumption per calendar month.

Every user of the system shall pay the Town of Iron Gate the following established fee per calendar month, which the said base fee shall entitle each user to a maximum of 4,000 gallons by the meter reading for water used each calendar month:

July 1, 2015 - \$49.00 per month

If the water used by a customer exceeds 4,000 gallons in a calendar month the fee shall be \$12.25 for each thousand gallons over the 4,000 gallons.

For apartment buildings, businesses, or homes where two or more families reside and there is only one water meter installed and the water meter reading exceeds 8,000 gallons, the customer shall be charged as prorated for two meters.

A penalty of 10% shall be added on all accounts if not paid on the 21st day of the billing month.

Accounts not paid by the 25th of the billing month will have a service charge of \$25.00 and services will be disconnected.

CHAPTER XXV - WATER ORDINANCE AND RATES

ARTICLE I - IN GENERAL

Section 25-1 - Definitions.

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

“Commercial Users” shall mean any non-industrial business which connects to the Town of Iron Gate Public Water System.

“Easement” shall mean an acquired legal right for the specific use of land owned by others.

“Industrial Users” shall mean a user which employs any industrial, manufacturing, or processing operation which connects to the Town of Iron Gate’s Public Water System.

“Mayor” shall mean the Town of Iron Gate or the Mayor’s authorized deputy, agent, or representative.

“Mayor’s agent” shall mean the Town of Iron Gate’s duly appointed agent who has the authority to technically review, operate and maintain the Town of Iron Gate’s water system, or any designee appointed by the Town of Iron Gate.

“Person” shall mean any individual, firm, company, association, society, corporation or group.

“Town of Iron Gate” shall mean the Governing Body of the Town of Iron Gate.

“Unpolluted water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Section 25-2 - Repeal of Prior Ordinances.

All prior Ordinances relating to the provision of drinking water by the Town of Iron Gate are repealed.

Secs. 25-3—25-5 - Reserved.

ARTICLE II - POLICY

Section 25-6. - Establishment of Town of Iron Gate Public Water Service.

The Town of Iron Gate’s Public Water Service was established under Virginia Law on February 17, 1969 with authority to operate a water system in the Town of Iron Gate, Virginia in accordance with the appropriate rules and regulations of the Code of Virginia.

Section 25-7 - Duties of Town of Iron Gate.

The Town of Iron Gate and its personnel are charged with establishing and maintaining a water system which meet all applicable local, state and federal regulations.

These personnel are responsible for establishing and maintaining correct diagrams of the entire water system. They shall also keep a correct record of all persons using the water system and the rates, charges and violations of each customer.

Section 25-8 - Protection of the Town of Iron Gate's Property.

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the water facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct and destruction of public property.

Section 25-9 - Powers and Authority of Inspections.

The Mayor and other duly authorized employees of the Town of Iron Gate bearing property credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to the use of the water system in accordance with the provisions of the regulations and policies of the Town of Iron Gate.

Section 25-10 - Application for water service.

Any person, owning property along the line of any water main, desiring the introduction of water service into his premises, shall make written application to the Mayor. Such application shall set forth the name of the applicant, the location and description of the property into which the water is to be introduced, and the purpose for which the water is to be used.

Section 25-11 - Report on completion of connection and inspection by the Mayor or designee.

The person authorized to make the connection shall report to the Mayor promptly on the completion of the work. The Mayor shall inspect such connection promptly. The connection shall not be covered up until the Mayor has made his inspection unless there has been no inspection within forty-eight (48) hours after notice given to the Mayor.

Section 25-12 - Charges for water service.

Refer to Town of Iron Gate's Regulations #2 Special Policies of the Town of Iron Gate.

Section 25-13- Penalties for non-payment and late payment of water service.

Refer to Town of Iron Gate Regulations #2 and Special Policies of the Town of Iron Gate.

Section 25-14 - Enforcement of water service charges.

The payment of water service charges may be enforced in the same manner and to the same extent and with the same rights as now exist or may hereafter be provided by law for the enforcement of claims or demands between individuals.

Proceedings for the enforcement of water service charges shall be instituted and conducted in the name of the Town of Iron Gate.

Secs. 25-14— 25-20 - Reserved.

ARTICLE III - WATER SYSTEM

Section 25-21 - Purpose.

It shall be the purpose of the Town of Iron Gate to obtain, improve, expand and maintain water sources and distribution systems to provide potable water to the residents (both private and commercial) of the Town of Iron Gate, Virginia, insofar as this may be financially feasible. Such potable water shall meet current Virginia Health Department requirements.

Section 25-22 - Water connection required.

No person, having an interest in a house or other building located within two hundred fifty (250) feet of a public water main shall use or allow such to be used as a human habitation or for any business or other purpose, or occupy or lease such for occupancy until such house or building shall have first received a water tap and meter.

All owners of such a house or other building is required to pay the Town of Iron Gate the minimum monthly water charge, even if no water is used.

No person, being the owner of a house or other building that is using that building for other than residential purposes or is renting or leasing that building for residential use shall be allowed to use that building until having first connected the plumbing of such with the Town of Iron Gate water system in order to insure the health and safety of persons other than himself.

Section 25-23 - Operating plumbing system required.

All owners of buildings used for residential purposes must install and maintain an operable plumbing system.

Section 25-24 - Use of private wells in addition to use of the public system.

No person, having an interest in a house or other building that is connected to the Town of Iron Gate's water system shall be permitted to connect another water supply source such as a well, spring or cistern to the same plumbing system that is supplied by the Town of Iron Gate's water system. If the use of another water supply is made by such person it must be connected to a separate plumbing system, or a system, authorized by the Town's Mayor or other authorized agent, protecting against backflow and cross-contamination of the Town's water system.

Section 25-25 - Future residential or commercial buildings.

No person, having an interest in a building that is constructed in the future, shall be allowed to use such until it has been connected to the Town of Iron Gate's water system if it is located within two hundred fifty (250) feet of a public water main.

Section 25-26 - Drilling of private wells.

No person shall be allowed to drill a well within two hundred (200) feet of a main water line owned by the Town of Iron Gate or use a private well.

Section 25-27 - Installation of service.

The Town of Iron Gate shall furnish for each person to whom it contracts to supply water, a water meter of the regular size with a meter box, and shall tap the water main, lay the pipe line to the outer edge of the right-of-way line adjacent to the property to which water is to be furnished, and install the water meter.

If the distance from tap to property line exceeds thirty (30) feet the property owner shall bear the cost of installation of that part which exceeds the thirty (30) feet. The property owner shall bear the cost of open cuts or boring under any roadway.

If a customer requires a larger than regular size meter, meter box and connection lines to the water main, the customer shall (in addition to the regular connection charge) secure and file with the Town of Iron Gate treasurer as indemnity bond in amount of one thousand dollars (\$1,000), said bond to remain in effect until the Town of Iron Gate has received income from the sale of the water to this customer equal in amount to the complete cost of installation plus the cost of producing the water sold.

Section 25-28 - Connection to public sewer as prerequisite to water service.

The Town of Iron Gate shall not be required to furnish water to any house or other building used as a human habitation or for any business or other purpose within two hundred fifty (250) feet of a public sewer until such house or building is connected with the public sewer.

Section 25-29 - Fee therefore.

For such equipment and the installation thereof, the owner of the premises shall pay to the Town of Iron Gate such sum as the Town of Iron Gate may direct by general policy. Should a meter larger than the regular one be desired, the owner of the premises shall pay the additional amount necessary to purchase the same.

Section 25-30 - Owner to pipe from Right-of-way (referred to in Section 25-27 above).

The owner of the premises supplied with Town of Iron Gate water shall arrange for and bear the expense of placing and maintaining the piping from the outer edge of the right-of-way into and over these premises.

Section 25-31 - Cutting off water at meter.

No user shall cut the water off at the meter without first securing permission from the Town of Iron Gate except in case of serious accident to the fixtures, in which case the user shall be responsible for all damage done to the fixtures at the meter.

Section 25-32 - Use of Town of Iron Gate Water by the Iron Gate Volunteer Fire Department.

The Iron Gate Volunteer Fire Department may use the Town of Iron Gate's water at no charge only for examining equipment, for cleaning and putting in good condition their engines and hose, for practicing fighting fires, and for fighting fires.

Rates for the water used will be charged to the Iron Gate Volunteer Fire Department based on the number of gallons used at the Town's current billing rate and billed in the same manner as other consumers of water located in the Town.

All penalties shall apply if not paid as prescribed on the water bill.

Section 25-33 - Connection fee.

- (a) A standard connection fee as set forth in the current policy of the Town of Iron Gate shall be charged at the time of connection. The Town Council of the Town of Iron Gate reserves the right to change this policy from time to time depending on construction project funding arrangements.
- (b) The purpose of this user charge system is to provide a financing mechanism to ensure that the operations of the Town of Iron Gate water system are self-sufficient and that each user of the system pays his proportionate share of operation, maintenance and replacement costs based upon the volume of water used.
- (c) Operation, maintenance and replacement (OM&R) costs for the water system will be distributed to the users in proportion to the total flow of each user.
- (d) The user charge system and rates will be revised annually to generate sufficient revenue to offset OM&R costs.
- (e) Debt service and repayment costs will be distributed among all users based upon availability to use the system. Users requiring individual debt services will pay a surcharge to sufficiently offset the costs.
- (f) All water will be furnished by meter measurement at such rates as are calculated by the Town of Iron Gate and all water passing through any meter shall be paid for according to meter reading at the prevailing rate specified by the Town of Iron Gate whether used or wasted.
- (g) Users may apply to the Town Clerk to purchase Bulk Water. Bulk Water will be metered at the

point of delivery by a designated agent of the Town. The water used will be subtracted from the total amount charged under subsection (f) above. Bulk Water shall be paid at the Bulk Water rate specified by the Town of Iron Gate. Application for Bulk Water purchases must be submitted to the Town Clerk at least three (3) business days prior to the metering and delivery of the Bulk Water.

- (h) Current policies and rates shall be available to the public during normal business hours at the Iron Gate Town Hall.

Section 25-34 - Suspension of Services.

(a) The Town of Iron Gate reserves the right to discontinue its service without notice for the following reasons:

- (1) To prevent fraud or abuse.
- (2) Consumers' willful disregard of the Town of Iron Gate's regulations and policies.
- (3) Emergency repairs.
- (4) Insufficiency of supply due to circumstances beyond the Town of Iron Gate's control.
- (5) Legal processes issued against the Town of Iron Gate.
- (6) Directions of Town Council.
- (7) Strike, riot, fire, flood, accident or any unavoidable cause.

Section 25-35 - Deposit as Prerequisite to Service.

The Town Treasurer shall require a deposit of two hundred dollars (\$200) from the owner or owners of the property to be served. In the case of apartments or other multi-dwelling properties, a separate deposit shall be required for each apartment, or other dwelling, served. The existence of a valid leasehold interest in any property shall not excuse the owner or owners of the property from payment of the deposit required by this Section.

Secs. 25-36—25-50 - Reserved.

ARTICLE IV - ENFORCEMENT AUTHORITY

Section 25-51 - Authority.

The Mayor or his designated agent shall inspect the plumbing in every building or premises in the Town of Iron Gate service area as frequently as in his judgment may be necessary to ensure that such plumbing has been installed in accordance with the provisions of this Chapter.

The Mayor or his designated agent shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such building or premises to correct, within a reasonable time set by the Mayor or designated agent, any plumbing installed or existing contrary to or in violation of this Ordinance.

Section 25-52 - Inspection.

The Mayor or his designated agent, shall have the right to enter into any building during

reasonable hours for the purpose of making inspection of the plumbing system installed in such building or premises provided that with respect to the inspection shall first be obtained from a person of suitable age and discretion herein, or in control thereof.

Section 25-53 - Connections to Boilers.

Potable water connections to boilers shall be made through an air gap or provided with an approved backflow preventer.

Section 25-54 - Violations.

Any owner, lessee, or tenant violating the provisions of this chapter shall be fined not less than one hundred dollars (\$100) per day. Each day's continuance of such violation shall constitute a separate offense.

Secs. 25-55—25-60 - Reserved.

ARTICLE V - WATER SYSTEM RATES

Section 25-61 - Connection fee.

All persons who desire to tap on the public water system of the Town of Iron Gate shall be charged a fee of \$600.

Section 25-62 - Multi-family dwellings.

In apartment buildings or homes where two or more families have separate living quarters, each family shall be charged the minimum charge although there is only one water meter. If the consumption of water exceeds eight thousand (8,000) gallons in a calendar month the said base fee shall be charged as two meters and the overage shall be prorated between the two families.

Section 25-63 - Accounts due.

All accounts are due and payable upon receipt of statement. There shall be a 5% penalty added to all water accounts not paid by the 21st day of the billing month. Services shall be discontinued if not paid by the 25th day of the billing month and a fee of twenty dollars (\$20.00) will be charged for reconnecting services.

Reconnecting services shall be reinstated during regular business hours only after payment of all past due accounts, penalties and the reconnection fee of twenty dollars (\$20.00) has been received. The fee will apply regardless if services are discontinued or not.

ZONING ORDINANCE

TOWN OF IRON GATE, VIRGINIA

Revised and amended August 12, 1988
Revised and amended August 29, 1988
Published August 5, 1988
Published August 22, 1988
Ordinance Number 254

ZONING ORDINANCE

IRON GATE, VIRGINIA

ARTICLE I - DISTRICTS

1 - 1 For the Purpose of this ordinance, the incorporated areas of Iron Gate, Virginia, are hereby divided into the following districts:

Residential, General R-2
Business, Limited B-2

ARTICAL - 2 RESIDENTIAL, GENERAL, DISTRICT R - 2

Statement of Intent

This district is composed of certain medium of high concentration of residential uses, ordinarily located between residential and commercial areas, plus certain open areas where similar development appears likely to occur.

The regulation for this district are designed to stabilize and protect the essential characteristics of the district to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life composed of an adult population with some children, and to permit certain commercial uses of character unlikely to develop general concentration of traffic, crowds of customers.

All residential types of structures for both permanent and transient occupancy and including institutions, are permitted plus structures for commercial uses conforming to the pattern of the district.

This residential district is not completely residential and it includes public and semipublic, institutional and other related uses.

However, it is basically residential in character, and as such, should not be spotted with commercial and industrial uses.

Sec. 2-1 USE REGULATIONS

In Residential District R-2, structures to be erected or land to be used, shall be for one or more of the following uses:

Sec. 2-1-1 Single Family Dwellings.

Sec. 2-1-2 Multiple Dwellings

Sec. 2-1-3 Schools

Sec. 2-1-4 Churches.

Sec. 2-1-5 Clubs and Lodges.

Sec. 2-1-6 Parks and Playgrounds.

Sec. 2-1-7 Professional Offices.

Sec. 2-1-8 Mobile Homes. (Sec. 129-1)

Sec. 2-1-9 Accessory building permitted as defined, however, garages, or other accessory structures such as carports, porches, and stoops attached to the main building, shall be considered part of the main building may not be closer to one (1) foot to any property line.

Sec. 2-1-10 Home Occupation Signs

2 - 2

AREA REGULATIONS

2-2-1

For lots containing or intended to contain a single permitted use served by public water and sewage disposal, the minimum lot area shall be seven thousand five hundred (7,500) square feet.

2-3

SETBACK REGULATIONS

Structures shall be located twenty (20) feet or more from any street right-of-way.

2-4

FRONTAGE REGULATIONS

For permitted uses the minimum lot width at the setback line shall be sixty (60) feet or more.

2-5

YARD REGULATIONS

SIDE - the minimum side yard for each main structure shall be ten (10) feet and the total width of the two required side yards shall be twenty (20) feet or more.

2-5-2

REAR - each main structure shall have a rear yard of twenty-five (25) feet or more.

2-6

HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

2-6-1

The height limit for dwellings or other structures permitted may be increased up to forty-five (45) feet and up to three (3) stories provided there are two (2) side yards for each permitted use, each of which is ten (10) feet or more, plus one (1) foot or more of side yard for each additional foot of building height over thirty-five (35) feet.

2-6-2

No accessory building which is within ten (10) feet of any party lot line shall be more than one (1) story high. All accessory buildings shall be less than the main building in height.

2-7

SPECIAL PROVISIONS FOR CORNER LOTS

2-7-1

Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

2-7-2

The side yard on the side facing the side street shall be twenty-five (25) feet or more for both main and accessory building.

ARTICAL - 3 BUSINESS DISTRICT B-2

Statement of Intent

The primary purpose of this district is to establish and protect a business district that will serve the surrounding residential districts. Traffic and parking congestion is to be held to a minimum to protect and preserve property values in the surrounding residential districts, and insofar as possible, all neighborhood business development shall take place in a limited business district. The minimum area of such a district shall be one block and only include such activities as are necessary for the day-to-day operation of normal household. In most instances these areas are not located on major traffic arteries.

3 - 1 USE REGULATIONS

In Business District B - 1, Structures to be erected or land to be used, shall be for one or more of the following uses:

3-1-1 Retail Stores.

3-1-2 Drug Stores, Bake Shops.

3-1-3 Car Wash.

3-1-4 Service Stations.

3-1-5 Barber and Beauty Shops.

3-1-6 Appliance Stores.

3-1-7 Off street parking as required by this ordinance.

3-1-8 Public utilities such as poles, lines, distribution transformers, pipes, meters and/or other facilities necessary for the provision and maintenance, including water and sewage facilities.

3-1-9 Business signs, and home occupations signs.

3-1-10 Church bulletin boards and identification signs.

3-2 AREA REGULATIONS

None except for permitted uses utilizing individual water supply or sewage disposal systems, the required area for any such use shall be approved by the Health Official. The administrator may require a greater area if considered necessary by the Health official.

3-3 SETBACK REGULATIONS

Structures shall be located ten (10) feet or more from any street right-of-way.

SIGNS

Sec. 4-1-1 GENERALLY.

It is the intent of this division that the regulation of the location, size, placement and facilities without difficulty or confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards to life and property and to ensure the continued attractiveness of the town and protect the property values of its citizens. It is further determined that signs which may lawfully be erected and maintained under the provision of this ordinance are consistent with customary usage and that signs which may not be consistent with customary usage, and are an abuse thereof and are an unwarranted invasion of the rights of legitimate business interests and of the public. The regulations of this ordinance are not intended to interfere with, abrogate or annul any law of the state relating to outdoor advertising. Where any provision of this ordinance imposes restrictions different from those imposed by the state, whichever provisions are more restrictive or impose higher standards shall control. (Ord. of December 20, 1976)

Sec. 4-1-2 DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section:

Advertising Structure: Any structure erected wholly or in part for advertising purposes, upon any poster, bill, printing, device or other advertisement of any kind whatsoever may be placed, posted, painted, tacked, nailed or otherwise fastened or affixed.

Bulletin Boards: A sign presenting the name, time or date of meetings and related information concerning a civic or religious organization.

Business Sign: A sign which directs attention to a business, profession, product, service or activity conducted, sold or offered on the premises where such sign is located.

Flashing Sign: A sign on which artificial light is not kept constant in intensity at all times when in use. Illuminated signs which indicate public service information, such as time, date, temperature, weather or similar information, shall not be considered flashing signs.

Home Occupation Sign: A home occupation sign directed attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

Identification Sign: A sign which identifies or otherwise describes the name, ownership or location of the lot or parcel of land upon which it is situated.

Location/Direction Signs: A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

Outdoor Advertising Sign (includes billboards): An off-premises sign which advertises a business, organization, event, person, place or thing.

Portable Sign: Any mobile or portable sign or structure, not securely attached to the ground or to any other structure.

Real Estate Sign: A sign which is used to offer property or structures for sale, lease or rent.

Sign: An outdoor display board, screen, device, insignia, object or part thereof used to announce, declare, demonstrate, display or otherwise to advertise and attract the attention of the public.

Temporary Sign: Any sign applying to a seasonal or to other brief activity, such as, but not limited to summer camps, horse shows and auctions.

Wall Signs: Any sign, including billboards and poster panels, attached to the exterior face of any building, with the exposed face of the sign parallel to the plane of the wall to or on which it is attached or painted.

Cross Reference: Definitions and rules of construction generally permitted by Allegheny County Building Code.

Sec. 4-2-3

EXEMPTIONS FROM ORDINANCE.

The following shall not be deemed "Signs" within the meanings of this ordinance:

- (1) Signs of a duly constituted governmental body, including traffic or similar regulatory devices or warnings for railroad crossings.
- (2) Signs required to be maintained by law or governmental order, rule or regulation, with a total surface area not exceeding ten (10) square feet on any lot or parcel.
- (3) Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties.
- (4) Flags or emblems of a civic, philanthropic, educational or religious organization, temporary in nature, and American or Virginia State flags.
- (5) Political signs, provided they are temporary in nature.

- (6) Small signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, freight entrance or the like, with a total surface area not exceeding six (6) square feet per sign on any lot or parcel.
- (7) Signs placed by a public utility showing the location of underground facilities.
- (8) Signs directing traffic on private property, but bearing no advertising matter. Such signs shall not exceed eight (8) square feet in area and seven (7) feet in height above the grade.
- (9) Signs advertising yard or garage sales.
- (10) No hunting, fishing, trespassing and similar signs.
- (11) Bulletin boards in front of churches and/or civic organizations.

Sec. 4-3-3 VARIANCES FROM ORDINANCE.

Unless otherwise specified variance from the provisions of this ordinance shall be determined by the Town Council by general rule or by applications for variances to the provisions of this chapter; However, flashing signs shall not be considered by the body for variances.

Sec. 4-3-4 VIOLATIONS OF ORDINANCE.

Any person who violates any of the provisions of this ordinance shall be guilty of a Class four (4) misdemeanor.

Cross Reference - Penalty for Class four (4) misdemeanor.

Sec. 4-3-5 RESIDENTIAL AREA.

Outdoor/Advertising or billboards shall not be permitted.

Sec. 4-3-6 NONCONFORMING SIGNS.

All signs erected prior to August 12, 1988, which do not conform to this ordinance, may remain in their non-conforming status so long as they do not require repairs in the amount of fifty (50) percent of their replacement value. Any such nonconforming sign requiring repairs in the amount of fifty (50) percent of its replacement value shall be required to conform with all provisions of this ordinance. Every such nonconforming sign which is removed for any cause shall, if re-erected, conform to the provisions of this ordinance.

Sec. 4-3-7 PERMITS.

Applications for sign permits shall be made to the town council accordance with the Uniform Statewide Building Code and the provisions of this ordinance.

Cross Reference - Virginia and Alleghany Building Codes.

Sec. 4-3-8 SIGN SETBACKS GENERALLY.

Minimum sign setbacks can be found in the following setback regulations charts:

Minimum Sign Setback Regulation

(Distance in feet from street right-of-way)

Sign Type:

Bulletin Board	25	Portable	5
Business	25	Real Estate	5
Home Occupation	5	Temporary	25
Identification	5		

Note: No sign shall be placed in a manner to create a visual barrier or hazard to the traffic. Additionally, no sign shall be placed within fifteen (15) feet of adjacent property line.

Sec. 4-4-9 FLASHING SIGNS NOT PERMITTED.

No flashing signs shall be permitted.

Sec.4-4-10 SIGN NOT TO BE PAINTED ON WALL SURFACE.

No sign shall be painted directly on the surface of any wall, building or fence.

Sec.4-4-11 LIMITATIONS ON USE OF, AND SETBACK REQUIREMENTS FOR PORTABLE SIGNS.

Portable signs will be permitted to remain at a location for a total of one hundred twenty (120) days per year, but they can only remain on the site for a maximum of ninety (90) consecutive days, with a thirty (30) day waiting period following the initial ninety (90) days. They will be set back an minimum of five(5) feet from the highway right-of-way.

Sec.4-4-12 OUTDOOR ADVERTISING SIGNS PROHIBITED.

Notwithstanding other provisions of this ordinance, no outdoor advertising sign or structure shall be erected.

Sec.4-4-13 SIGNS FOR NONCONFORMING COMMERCIAL USES AND CHILD CARE CENTERS.

For nonconforming commercial uses or child care centers, one (1) sign not to exceed six (6) square feet in area and not illuminated may be permitted. Such signs shall be mounted flat against the wall of the principal building or more than twenty (20) feet from the front lot lines or more than ten (10) feet from the side or rear lot lines.

Sec. 4-3-14 SIGNS OBSTRUCTING VISION AT INTERSECTIONS OR INTERFERING WITH TRAFFIC SIGNS.

No sign, except for authorized traffic signs, shall be erected at the intersection of any street in such a manner as to create a traffic hazard by obstruction vision between heights of two and one-half (2-1/2) and eight (8) feet; or at any location where it may interfere with, obstruct the view of or be confused with any authorized traffic sign.

Sec. 4-3-15 REMOVAL OF OBSOLETE SIGNS.

Any sign now or hereafter existing in any district, which sign no longer advertises a bonafide business conducted, product sold or activity or campaign being conducted shall be painted out or otherwise removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such sign may be found. Such removal shall be accomplished within thirty (30) days of such cessation. Upon failing to comply within the time specified, the Zoning Administrator or the Town Council is hereby authorized to order painting out or removal of such sign, within thirty (30) days of a written notification, and any expense incident thereto shall be paid by the owner of the building, structure or lot on which such sign is attached.

Sec. 4-5-16 LICENSE REQUIRED, OF OUTDOOR ADVERTISER.

No person shall engage or continue in the business of outdoor advertising within the corporate limits of the Town of Iron Gate without first obtaining an application for a permit therefore from the Zoning Administrator, the fee for such license, hereby imposed for the revenue for the use of the town, shall be two hundred and fifty dollars (\$250) per annum, payable annually in advance. Applications for licenses, or renewal of licenses, shall be made from the town clerk and shall contain such information as the town may require and shall be accompanied by the annual fee. Licenses granted under this section shall expire on the thirty-first (31) day of December of each year and shall not be prorated. Applications for renewal of licenses shall be made not less than thirty (30) days prior to the date of expiration.

Sec. 4-5-17 PERMITS REQUIRED.

Except as in this artical otherwise provided, no person, whether engaged in the business of outdoor advertisement or advertising structure in the Town of Iron Gate, without first obtaining a permit therefore from the town clerk and paying the annual fee therefore, as therein provided shall be guilty of a misdemeanor shall be fined not less than one hundred (\$100) dollars and each succeeding day in which a violation occures, or continuous will be deemed a seperate offence under this ordinance.

No permit shall be required for the posting or display of any advertisement posted or displayed on any advertising structure or space for which a permit has been issued or renewed for the current calendar year under the provisions of this article unless such permit has been revoked.

Sec. 4-5-18 BUSINESS SIGNS.

For the purpose of this ordinance "Business Signs" shall mean signs installed on premises and related to businesses located within the corporate limits of the Town of Iron Gate. Unless exceptions are granted by the governing body, off premise signs and directional signs relating to such businesses are not permitted.

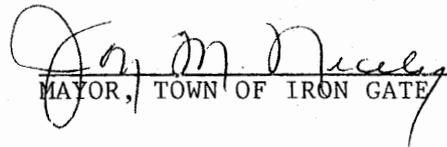
Sec. 4-5-19 APPEAL.

The applicant has the right to appeal to the Governing body within thirty (30) days from the date of rejection.

Sec. 4-5-20 CONFLICTS.

Should any section or provision of this ordinance be declared invalid such decision shall not effect the validity of the remaining portions of this ordinance.

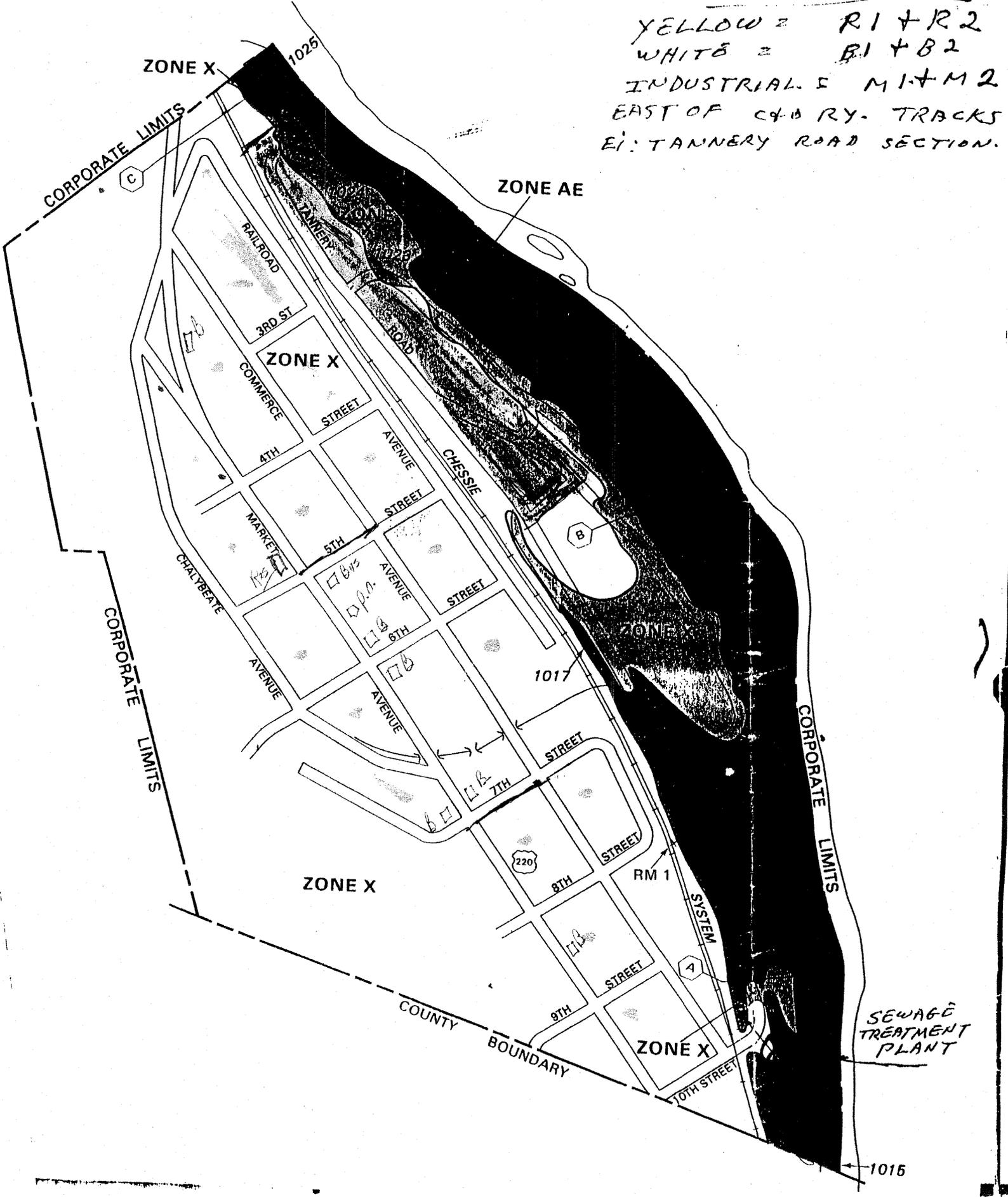
This ordinance shall be in full force and effect on the 12 day of August, 1988.


MAYOR, TOWN OF IRON GATE

ZONING MAP

YELLOW = R1 + R2
WHITE = B1 + B2

INDUSTRIAL E M1 + M2
EAST OF C&D RY. TRACKS
E: TANNERY ROAD SECTION.



TOWN OF IRON GATE
P. O. BOX 199
IRON GATE, VA 24448
Tele. No. (540) 862-0770
Fax No. (540) 862-1299

At a regular meeting of the Iron Gate Town Council, Iron Gate, Va. held September 30, 2010 at 7:00 P.M. in the council chambers of the Iron Gate Office Building, located at 401 Commerce Avenue, Iron Gate, Virginia the following action was taken:

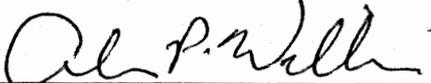
PRESENT	VOTE
Mr. Fred E. Brackenridge	Yes
Mr. Richard B. Erskine	Yes
Mr. John E. Norvell, Jr.	Yes
Ms. Jennifer O. Tyree	Yes
Mr. Robert W. Daniel, Sr.	Absent
Ms. Karen P. Patterson	Absent

On motion of Mr. John E. Norvell, Jr. and seconded by Ms. Jennifer O. Tyree that the following resolution be adopted:

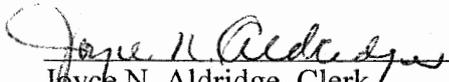
BE IT RESOLVED, that the Iron Gate Town council approved the adoption of Ordinance No. 9-2010, Floodplain Zoning Ordinance be adopted to comply with the requirement of Section 60.3 (d) of the National Flood Insurance Program regulations.

NOW BE IT RESOLVED, Town Ordinance No. 245 be amended with the replacement of ordinance No. 9-2010.

PASSED AND APPROVED, unanimously by a roll call vote on September 30, 2010.


Alan P. Williams, Sr. Mayor

ATTEST:


Joyce N. Aldridge, Clerk

ORDINANCE – 9-2010

AN ORDINANCE AMENDING ORDINANCE NO. 245. THE ZONING ORDINANCE OF THE TOWN OF IRON GATE, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE TOWN OF IRON GATE, VIRGINIA AS FOLLOWS:

ARTICLE I – GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted to localities by **VA Code 15.2-2280**. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses activities, and development from locating within districts subject to flooding;
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Iron Gate and identified as being floodprone.

Section 1.3 – Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other

applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Mayor or designee.
- D. This ordinance shall not create liability on the part of the Town of Iron Gate or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Section 1.4 – Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.5 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.6 – Penalty for Violations

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Town of Iron Gate shall be guilty of a misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required

to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged altered or relocated in noncompliance with this article may be declared by the Town of Iron Gate to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

ARTICLE II – DEFINITIONS

- A. Base Flood – The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base Flood Elevation – The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals – The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- E. Development – Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- F. Elevated Building – A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- G. Encroachment – The advance or infringement of uses, plant growth, fill, excavation buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- H. Flood or Flooding
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal water; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.

-
- c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- I. Flood Insurance Rate Map (FIRM) – an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
 - J. Flood Insurance Study (FIS) – an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
 - K. Floodplain or Flood-prone Area - Any land area susceptible to bringing inundated water from any source.
 - L. Flood Proofing – any combination of structural and non-structural additions, Changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate property, water and sanitary facilities structures and their contents.
 - M. Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
 - N. Freeboard – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.

-
- O. Higher Adjacent grade – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- P. Historic Structure – Any structure that is;
1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.
- Q. Lowest Floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure unable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR - 60.3.
- R. Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassie and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also include park trailer, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- S. Manufactured home park or subdivision – a parcel (or contiguous parcels) of

land divided into two or more manufactured home lots for rent or sale.

- T. New Construction – For the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after January 17, 1987, and includes any subsequent improvements to such structures. For floodplain management purposes new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- U. Recreational Vehicles – A vehicle which is:
 - 1. built on a single chassie;
 - 2. 400 square feet or less when measured at the largest horizontal projection;
 - 3. designed to be self-propelled or permanently towable by a light duty truck; and;
 - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

- V. Shallow Flooding Area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

- W. Special Flood Hazard Area – the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in an given year as determined in Article 3, Section 3.2 of this ordinance.

- X Start of Construction – For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L.- 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as cleaning,

grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation of a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration effects the external dimensions of the building.

- Y. Structure – for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- Z. Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- AA. Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:
1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- BB. Violation – The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2),(e)(4), or (e)(5) is presumed to be violation until such time as that documentation is provided.
- CC. Watercourse – A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Water course includes specifically designated area in which substantial flood damage may occur.

ARTICLE III – ESTABLISHMENT OF ZONING DISTRICTS

Section 3.1 – Description of Districts

A. Basis of Districts

The various floodplain districts shall include special flood hazard area. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Allegheny County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 17, 2010, and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Town of Iron Gate offices.

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
2. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.
3. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Flood Plain Information Reports U.S Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies , analyses,

computations, etc. shall be submitted in sufficient detail to allow a thorough review by the governing body.

4. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provision.
2. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and /or those pertaining to the floodplain district shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Section 3-2- District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Town of Iron Gate where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Section 3.3 – Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District Boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 3.4 – Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six

months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical change affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

ARTICLE IV – DISTRICT PROVISION

Section 4.1 – Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Iron Gate Subdivision Regulations. Prior to the issuance of any such permit, the Mayor or designee requires all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B Site Plans and Permits applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement).
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

Section 4.2 – General Standards

The following provisions shall apply to all permits:

-
- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
 - B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
 - C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - E. Electrical, heating ventilation, plumbing, air conditioning equipment and other facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A-H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, The Virginia Department of Environmental application is available from any of these organizations). Futhermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.

- J. The Flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3 – Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according Article 4, section 4.6, the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated at least one foot above the base flood level.

B. Non-Residential Construction

New construction or substantial improvements of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated at least one foot above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

C. Elevated Buildings

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B) and section 4.3 (A).
2. All recreational vehicles placed on sites must either:

- a. be on the site for fewer than 180 consecutive days;
- b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
- c. meet all the requirements for manufactured homes in Article 4, sections 4.2 and 4.3 (D)

Section 4.4 – Standards for the Floodway District

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Mayor or designee.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Iron Gate’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

- B. If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
- C. The placement of Manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation and encroachment standards are met.

Section 4.5 – Standards for the Special Floodplain District

The following provisions shall apply within the special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town of Iron Gate.

Development activities on Zone A1-30, AE and AH, on the Town of Iron Gate's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Town of Iron Gate's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

Section 4.6 – Standards for Approximated Floodplain

The following provisions shall apply with the Approximate Floodplain District:

The approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but when a one hundred (100)-year floodplain boundary has been approximated. Such area are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from the federal, state and other acceptable sources shall be used, when available. Where the specific one hundred (100) –year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc. then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts such as point on boundary, high water marks or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Mayor or designee.

The Mayor or designee reserves the right to require a hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated at least one foot above the base flood level. During the permitting process, the Mayor or designee shall obtain:

- 1) the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and;
- 2) if the structure has been flood-proofed in accordance with the requirements of

this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Section 4.7 – Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage:
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

ARTICLE V – VARIANCES; FACTORS TO BE CONSIDERED

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals have determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats of public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provision of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100) - year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents of flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation of flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variations shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variations shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify that the applicant for a variance, in writing and signed by the title of appropriate public official, that the issuance of a variance to construct a structure below the one hundred (100) – year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variations. Any variations that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VI – EXISTING STRUCTURES IN FLOODPLAIN AREA

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A Existing structures in the Floodway Area shall be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.

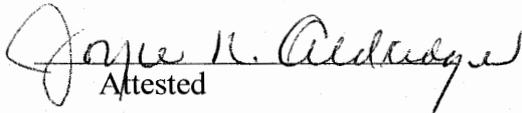
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE VII – ENACTMENT

Enacted and ordained this 30th Day of September, 2010. This ordinance shall become effective upon passage.



Alan P. Williams, Sr., Mayor



Attested

**TOWN OF IRON GATE
P. O. BOX 199
IRON GATE, VA. 24448**

Ordinance No. 8-97

AT A REGULAR MEETING OF THE IRON GATE TOWN COUNCIL HELD ON THURSDAY, AUGUST 28, 1997, AT 7:00 P.M. IN THE TOWN HALL OF IRON GATE, VIRGINIA

AN ORDINANCE officially vacating a certain street in the Town of Iron Gate, Virginia which is more particularly described hereafter.

WHEREAS, upon the motion of a member of Town Council pursuant to Section 15.1-482 (b) of the Code of Virginia (1950), as amended, the Town Council of the Town of Iron Gate, Virginia was requested to vacate a certain street within the Town of Iron Gate as described below;

WHEREAS, notice of the proposed ordinance was duly given as required by section 15.1-431 of Code of Virginia (1950), as amended;

WHEREAS, as required by Section 15.1-482 of the Code of Virginia (1950), as amended, the Town Council of the Town of Iron Gate has properly evaluated the request;

WHEREAS, it appearing that the street has not been developed and is not useful as a means of ingress and egress and it further appearing that no limitation or inconvenience would result to individuals or to the public from vacating said street;

WHEREAS, Council has given notice of and held a public hearing as required by law and, after considering all public comment on the issue, has found that no limitation or inconvenience will result to individuals or to the public from vacating said street as requested.

THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Iron Gate, Virginia, that said street situated in the Town of Iron Gate, Virginia, County of Alleghany, State of Virginia and described as Earnest Avenue on the map of the Town of Iron Gate, Virginia, prepared by Dunlop and Kennaday, engineers, in August, 1889 and recorded in the Clerk's Office of the Circuit Court for Alleghany County, Virginia, in Plat Book 1, page 29, be permanently **VACATED, DISCONTINUED** and **CLOSED**.

BE IT FURTHER ORDAINED, that the Town Clerk be and hereby is directed to mark "permanently vacated" on the said street on maps and plats on file in the office of the Town of which said street is shown referring this ordinance of the Council of the town of Iron Gate, Virginia.

BE IT FURTHER ORDAINED that the Town Clerk cause a certified copy of this ordinance be transmitted to the Clerk of the Circuit Court of Alleghany County for recordation in the deed books in the Clerk's Office.

This ordinance was adopted on motion made by Council Member Richard R. Unroe, and seconded by Council Member Edna P. Lucado.

AYES 5

NAYS 0

APPROVED:

Lethia C. Hammond
Mayor

ATTEST:

James N. Ackerly
Clerk of Council

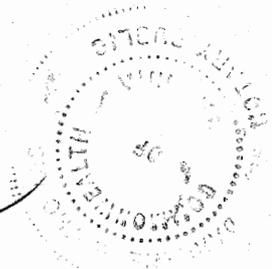
State of Virginia

County of Alleghany, to wit:

I, Darlene B. Thomas, a notary Public in and for the State of Virginia, at large, do hereby certify that Lethia Hammond, Mayor of the Town of Iron Gate, Virginia, whose name is signed to the foregoing Ordinance Vacating a Street, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this 29th day of June, 1998

Darlene B. Thomas
Notary Public



My Commission Expires: 12-31-99

TOWN OF IRON GATE

401 Commerce Ave. • P.O. Box 199 • Iron Gate, Virginia 24448
 (540) 862-0770 • Fax (540) 862-1299

June 25, 1998

Michael D. Wolfe
 Clerk of the Court
 P. O. Box 670
 Covington, Va. 24426

Dear Mr. Wolfe:

Joyce N. Aldridge Clerk of the Town of Iron Gate do hereby, certify that the attached ordinance concerning vacating Earnest Avenue located in the Town of Iron Gate is a true copy and was duly voted on and adopted on August 28, 1997.

Sincerely,

Joyce N. Aldridge
 Joyce N. Aldridge, Clerk
 TOWN OF IRON GATE

VIRGINIA: In the Clerk's Office of the Circuit Court of the County of Alleghany, This instrument, with certificate of acknowledgement annexed, is admitted to record at 13:40 o'clock P M 6-29 1998
 Taxes Paid: Pursuant to Sect. 58.1-802 \$ -0-
 State Tax: \$ -0- Teste *Michael D. Wolfe* Clerk

1705

No. 10-2003

**AMENDMENT TO ORDINANCE NO. 279
TO REGULATE THE COLLECTION AND DISPOSAL OF SOLID WASTE**

Pursuant to the provisions of Title 15.2, Subtitle II, Article 2, Code of Virginia, 1950 as amended, the Town Council of Iron Gate, Virginia does hereby amend Ordinance No. 279 and enact the following amendment regulating the collection and disposal of solid wastes:

BE IT ORDAINED AS FOLLOWS:

Section I: Definitions

For the purpose of this Ordinance the following words and terms shall have the meaning herein ascribed to them.

“GARBAGE” the term “Garbage” shall include and mean all kitchen and table refuse, and every accumulation of animal or vegetable matter that attends or results from the preparation, dealing in or handling of food stuffs.

“TRASH” the term “Trash” shall include and mean all rubbish, garbage, leavings, waste paper fiber, rugs, trash, debris and all worthless, useless, unused, rejected and cast-off matter produced by and as a result of human habitation or the transaction of business within this town, excepting rocks, stones broken masonry, concrete, scrap lumber, dead animals.

Section II: Receptacles, Required Size, Etc.

It is the responsibility of every person occupying a residence or business house to provide and, at all times, keep within such buildings or on the lot on which the building is situated, a suitable and sufficient metal or plastic cans or receptacles, and each having a suitable cover for receiving and holding, without leakage or escape of objectionable odors, all the garbage and trash that accumulates on the premises. All garbage shall be put in the proper containers. Each receptacle shall be placed as to be readily accessible for removing and emptying material there from by the collectors and at a place that will not be a public nuisance or in any degree offensive.

Cans or receptacles for garbage or trash shall each have a capacity of not less than twenty (20) gallons, or more than thirty-five (35) gallons, and the cans and contents must not weigh more than fifty pounds. Each such container shall be kept closed at all times except when the containers are being filled or emptied.

Section III: Refuse Bins for Certain Businesses

It is the responsibility of the proprietor of every business house in the Town that might produce or accumulate more than ninety (90) gallons of dry garbage or trash in a single day to provide, a place suitable to the town crew a refuse bin for storage and confinement of all refuse produced by the business.

Any commercial establishment that requires additional trash pick-up over and beyond the normal pick-up as scheduled by the Town Council shall be charged in accordance with the time involved for such additional pick-up. Additional charges shall be computed by Town Council and forwarded to such commercial establishment.

Section IV: Disposition of Ashes:

It shall be the responsibility of every person desiring to dispose of ashes from incineration or heating systems to provide a flame proof vessel and the entire weight of which includes contents, shall not exceed fifty (50) pounds.

Section V: Interference with Garbage or Trash Receptacles

No person other than the owners thereof or employees of the Town of Iron Gate shall interfere with any garbage or trash receptacles or the contents thereof.

Section VI: Unlawful Disposition of Trash and Garbage

It shall be unlawful for any person to deposit in or on or throw in or upon the town's highway, alleys, vacant lots, rivers, creeks, branches, open streams of water, or public places any broken glass, bottles, cans, nails, small particles of paper, paper ribbons, sweepings from the store, house or office, ashes, concrete, filth rubbish goods, boxes, planks, water or slops, garbage, animals carcass, fruit peelings, tree bush shrubbery or grass cuttings or any other debris.

No person shall deposit or dump any of the following materials anywhere within town limits: Poisons, acids, caustics, manure, human excreta, explosives, inflammables and other dangerous materials or substances, large dead animals and any other material, substance or items that cannot be readily handled in the normal operation of the town collection system.

Section VII: Illegal Disposal of Trash and Solid Waste:

It shall be unlawful for any person, firm or corporation, including municipal corporations, to establish or operate a landfill in the Town of Iron Gate without first obtaining a permit from the Iron Gate Town Council. Any landfill refuse disposal area operated in Iron Gate by any person, firm or corporation shall be restricted to the disposal

of household wastes and the normal trash, old cartons, packing materials and the like from stores and business places. Tree stumps, logs, or parts of logs, tree trimmings or heavy bush, wallpaper, roofing materials, other substance that may accumulate as the result of repairs to yards and buildings, or as a result of building operating, junked or portions of automobiles, and scrap metal may be dumped or placed in a section or sections of the area set aside for this purpose wherever such section is available, however, until it is practical to set aside or prove such sections, this type of debris shall not be dumped or placed within town limits.

Section VIII: Regulations and fees

No person shall put grass clippings, brush, limbs, and ashes in trash receptacles. These will be picked up separately along with scrap metal and an additional charge will be charged for these items.

Household and businesses refuse shall be in bags and placed in proper receptacles with lids, the Mayor or Town Manager has the right to regulate the location where the refuse shall be picked up; a limit of six (6) 35 gallon bags will be at the regular monthly rate. Only approved receptacles by the town council will be allowed, no out of town refuse will be accepted without prior approval, and any items placed within five (5) feet of the receptacle will be consider refuse. Special consideration for elderly and handicap will be the discretion of the Mayor or Town Manager.

The following charges will be placed on the monthly utility bill and will be due by the 21st day of the billing month if not paid on this date a 5% penalty will be added. Accounts not paid by the 25th of the billing month service will be disconnected and a fee of \$10.00 will be due to restore services:

Residential Minimum Monthly charge (six (6) bags per week)	\$ 7.00
Businesses Minimum Monthly Charge(two collection per Week)	\$ 9.00
Residential out side of Town Limits(Pre-approved)	\$10.00
Apartments each unit	\$ 7.00
Multi Unit Dwelling	\$ 7.00
Use of Dump Truck (Home owner loading item)	\$25.00
Additional Charge per load if town employees load the truck	\$15.00
Automobile Tires (size under 16-1/2 inch)	\$ 5.00
Automobile Tires (size over 16-1/2 inch)	\$ 6.00
Appliances	\$ 5.00
Household Furniture	\$ 5.00
Miscellaneous Pick Up (Brush, Grass, Ashes, etc.)	\$ 5.00

The town will designate a week in April each year for picking up items with the exception of automobile tires at no charge.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 and imprisonment in jail not exceeding six months or both, in the discretion of the jury or the court within a jury, and provided further that the town council shall have the authority to direct the refusal of collecting the garbage or waste materials from any person, firm or corporation who fails to comply with the provision of this Ordinance, regulating size and character of containers and disposal receptacles for storing and handling trash and garbage.

This Ordinance was published on October 16, 2003 and October 23, 2003 in the Virginian Review as provided for in the Code of Virginia.

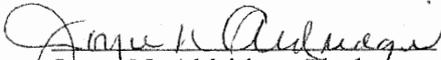
Council of the Town of Iron Gate adopted this Ordinance at their regular meeting held on October 30, 2003 and will supersede prior ordinances pertaining to Solid Waste Collection.

This ordinance shall be effective on and after 12:01 on October 30, 2003.



Alan P. Williams, Mayor

Copy Teste:



Joyce N. Aldridge, Clerk

**TOWN OF IRON GATE
P. O. BOX 199
IRON GATE, VA 24448
Telephone No. (540) 862-0770**

**ORDINANCE NO. 279-A-AMENDING ORDINANCE NO.279
COLLECTION AND DISPOSAL OF SOLID WASTE IN THE
TOWN OF IRON GATE**

BE IT ORDAINED by the Iron Gate Town council that the ordinance for collecting and disposing of solid waste be amended.

BE IT ORDAINED effective July 1, 2014 Ordinance No.279 which establishes the rate collected on use of the dump trailer by town citizens be amended.

NOW THEREFORE BE IT ORDAINED by council of the Town of Iron Gate by an affirmative vote an increase to \$30.00 per load for use of the town's dump trailer.

EFFECTIVE DATE OF THIS ORDINANCE:

July 1, 2014

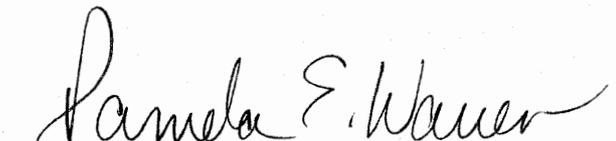
NOW THEREFORE BE IT ORDAINED that all other regulations relating to the "COLLECTION AND DISPOSAL OF SOLID WASTE IN THE TOWN OF IRON GATE" shall remain in effect.

This amendment was adopted by town council of the Town of Iron Gate on the 26th of June, 2014.

ATTEST:



Alan P. Williams, Sr., Mayor



Pamela E. Warren, Clerk