



## COUNTY of FREDERICK

**Jay E. Tibbs**

Deputy County Administrator


540/665-5666

Fax 540/667-0370

E-mail:

[jtibbs@fcva.us](mailto:jtibbs@fcva.us)

**TO:** Code and Ordinance Committee

**FROM:** Jay E. Tibbs, Deputy County Administrator 

**DATE:** August 17, 2017

**RE:** **Code & Ordinance Committee Meeting Agenda**

There will be a meeting of the Code and Ordinance Committee on **Wednesday, August 23, 2017 beginning at 3:00 p.m., First Floor Conference Room, County Administration Building, 107 North Kent Street.** The following items will be discussed:

1. Proposed Amendment to the Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12 (Volunteer Fire Fighter and Rescue Members) – Simplified Background Check Procedure. **(See Attached.)**
2. Proposed Amendment to the Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11 (Methamphetamine Lab Cleanup and Removal Responsibility for Costs; Determination of Amount). **(See Attached.)**
3. Proposed Amendment to the Frederick County Code, Chapter 155 (Taxation), Section 155-3 (Tax returns, failure to file). **(See Attached.)**
4. Proposed Amendment to the Frederick County Code, Chapter 155 (Animals and Fowl), Section 48-23 (Specified noise unlawful) (Tax returns, failure to file), Section 48-24 (Enforcement), Section 48-25 (Violations and penalties) and Chapter 118 (Noise), Section 118-1 (Specified noise unlawful), Section 118-2 (Enforcement), Section 118-3 (Violations and penalties), Proposed Section 118-4 (Specific prohibitions), Proposed Section 118-5 (Exceptions). **(See Attached.)**
5. Such other business as may come before the Committee.

Should you have any questions or if you are unable to attend the meeting, please do not hesitate to contact me.

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail:  
rwillia@fcva.us

## MEMORANDUM

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 10, 2017

RE: Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12  
(Volunteer Fire Fighter and Rescue Members) – Simplified Background Check  
Procedure

Attached please find materials regarding the above proposed ordinance amendment. The Public Safety Committee, on June 15, 2017, approved forwarding this proposed ordinance to the Code & Ordinance Committee.

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail:  
rwillia@fcva.us

## MEMORANDUM

TO: Public Safety Committee

FROM: Roderick B. Williams  
County Attorney

DATE: June 9, 2017

RE: Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12  
(Volunteer Fire Fighter and Rescue Members) – Simplified Background Check  
Procedure

Attached please find a draft proposed ordinance amendment concerning Section 89-12 of the County Code. The proposed amendment would add a subsection to the existing language of the section. The amendment would serve the purpose of speeding up the process for background checks necessary in order to approve volunteer fire and rescue members. On July 1<sup>st</sup>, 2015, a new subsection, subsection (F), of Section 32.1-115.5 of the Code of Virginia (Certification and recertification of emergency medical services providers; appeals process) took effect. A copy of Section 32.1-115.5 and copies of related enabling legislation are attached, for reference. The General Assembly enacted this subsection to simplify the process previously in place under Section 32.1-115.5(E) of the Code of Virginia to approve volunteer fire and rescue members. Subsection (F) permits the County to submit background checks directly to the Central Criminal Records Exchange (instead of through the State Health Department, for forwarding then to the Central Criminal Records Exchange, a process that has sometimes resulted in delays by the state agencies), but requires a local ordinance to be adopted for the subsection to apply to the locality. This amendment would serve as the local ordinance.

The Committee previously considered this ordinance at its meeting on July 18, 2015, and favorably considered the ordinance, except that it requested the ordinance include an option for the Fire and Rescue Department to send requests either to the State Board of Health or to Central Criminal Records Exchange, either of which option is permitted under the state law. This option would allow the Department to pursue whichever process is then providing faster responses. The

attached ordinance reflects the inclusion of that option. If the Committee recommends adoption of the ordinance, it would be forwarded to the Code & Ordinance Committee.

Attachments

cc: Dennis D. Linaburg, Chief, Fire and Rescue Department



**ORDINANCE**  
\_\_\_\_\_, 2017

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 89-12 (Volunteer Fire Fighter and Rescue Members) of Article IV (Volunteer Membership) of Chapter 89 (Fire and Rescue Services) of the Code of Frederick County, Virginia be, and the same hereby is, amended as follows (additions are shown in **bold underline**):

**§ 89-12. Volunteer fire fighter and rescue members.**

**A.** Any person, 18 years of age or older, is eligible for membership in a company as a regular member. Persons must apply and be accepted by the company to which application is made according to its rules and regulations, the rules and regulations of the company, and state law. Participation by members must be in accordance with the company rules and regulations and state law.

**B.** **Applicants for membership shall be subject to a background check. Applications for membership shall require, for the background check, the submission of fingerprints and personal descriptive information, to be processed in accordance with the following:**

- 1. Any person who applies to be a volunteer with a company shall submit fingerprints and provide personal descriptive information to be sent directly by the Department to (i) the State Board of Health to be forwarded by Central Criminal Records Exchange to the Federal Bureau of Investigation or (ii) the Central Criminal Records Exchange to then be forwarded to the Federal Bureau of Investigation, in either case for the purpose of obtaining criminal history records information for the applicant, in accordance with Code of Virginia § 32.1-111.5.**
- 2. Upon receipt of the results of the state and national criminal history records search, the Department Chief, as designee of the County Administrator, shall notify the Office of Emergency Medical Services regarding the applicant's eligibility to serve as a volunteer.**
- 3. Information provided to the Office of Emergency Medical Services shall be limited to notification as to whether the applicant is eligible**

**to serve as a volunteer in accordance with requirements related to disqualifying offenses set forth in regulations of the State Board of Health, and shall not include information regarding whether the applicant has been found ineligible to serve as a volunteer due to any additional exclusionary criteria established by the County.**

**This section is in accordance with the Code of Virginia, 1950, as amended, §§ 15.2-1503.1, 19.2-389, and 32.1-111.5.**

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2017.

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Blaine P. Dunn	_____	Gene E. Fisher	_____
Judith McCann-Slaughter	_____		

A COPY ATTEST

\_\_\_\_\_  
Kris C. Tierney  
Interim Frederick County Administrator

## § 32.1-111.5. Certification and recertification of emergency medical services providers; appeals process

- A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical services providers, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1. Such regulations shall include criteria for determining whether an applicant's relevant practical experience and didactic and clinical components of education and training completed during his service as a member of any branch of the armed forces of the United States may be accepted by the Commissioner as evidence of satisfaction of the requirements for certification.
- B. Each person desiring certification as an emergency medical services provider shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. When determining whether an applicant is qualified for certification, the Commissioner shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the requirements for certification. If the Commissioner determines that the applicant meets the requirements for certification as an emergency medical services provider, he shall issue a certificate to the applicant. An emergency medical services provider certificate so issued shall be valid for a period required by law or prescribed by the Board. Any certificate so issued may be suspended at any time that the Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services provider. The Commissioner may temporarily suspend any certificate without notice, pending a hearing or informal fact-finding conference, if the Commissioner finds that there is a substantial danger to public health or safety. When the Commissioner has temporarily suspended a certificate pending a hearing, the Commissioner shall seek an expedited hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).
- C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services providers.
- D. The Commissioner may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding 90 days.
- E. The Board shall require each person who, on or after July 1, 2013, applies to be a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation, for the purpose of obtaining his criminal history record information. The Central Criminal Records Exchange shall forward the results of the state and national records search to the Commissioner or his designee, who shall be a governmental entity. If an applicant is denied employment or service as a volunteer because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written

request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation.

F. Notwithstanding the provisions of subsection E, an emergency medical services agency located in a locality having a local ordinance adopted in accordance with §§ [15.2-1503.1](#) and [19.2-389](#) shall require an applicant for employment or to serve as a volunteer to submit fingerprints and provide personal descriptive information to be provided directly to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for the purpose of obtaining criminal history records information for the applicant. The Central Criminal Records Exchange shall, upon receipt of an applicant's records or notification that no records exists, forward the results of the state and national records search to the county, city or town manager or chief law-enforcement officer for the locality in which the agency is located, or his designee, who shall be associated with a governmental entity. Upon receipt of the results of the state and national criminal history records search, the county, city or town manager or chief law-enforcement officer for the locality, or his designee, shall notify the Office of Emergency Medical Services regarding the applicant's eligibility for employment or to serve as a volunteer. Information provided to the Office of Emergency Medical Services shall be limited to notification as to whether the applicant is eligible for employment or to serve as a volunteer in accordance with requirements related to disqualifying offenses set forth in regulations of the Board and shall not include information regarding whether the applicant has been found ineligible for employment or to serve as a volunteer due to additional exclusionary criteria established by the locality. Whenever fingerprints are submitted to both authorities and it is deemed feasible and practical by the Central Criminal Records Exchange it shall forward the results of the fingerprint based state and national records search to the county, city or town manager or chief law enforcement officer for the locality in which the agency is located, or his designee, who shall be associated with a governmental entity, and to the Office of Emergency Medical Services.

1996, c. [899](#);1997, c. [248](#);1998, cc. [803](#), [854](#);2008, c. [660](#);2011, c. [497](#);2013, cc. [72](#), [176](#), [331](#), [407](#); 2015, cc. [362](#), [502](#), [503](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 15. Local Government Personnel, Qualification for Office, Bonds, Dual Office Holding and Certain Local Government Officers

## § 15.2-1503.1. Background checks required for certain employees and licensees

Any locality having a local ordinance adopted in accordance with § 19.2-389 (i) shall require any applicant who is offered or accepts employment with the locality, (ii) shall require any prospective licensee for any categories of license designated by ordinance, or (iii) may require any individual who is offered or accepts employment with a contractor or public service corporation that provides public transit services to the locality to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's or licensee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant or licensee. The locality may require such applicant or licensee to pay the cost of the fingerprinting or a criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's or licensee's record or notification that no record exists, shall make a report to the county, city or town manager, or chief law-enforcement officer or his designee, who must belong to a governmental entity. If an applicant is denied employment or a licensee is denied a license because of the information appearing in his criminal history record, the locality shall notify the applicant or licensee that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2003, c. 742;2004, c. 160;2010, cc. 189, 563.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 19.2-389. Dissemination of criminal history record information

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;
2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;
3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;
4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;
5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;
6. Individuals and agencies where authorized by court order or court rule;
7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of

investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;
15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;
16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
17. (Effective until July 1, 2018) The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;
17. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;
18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;
19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;
22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a local school board pursuant to § 22.1-

79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;
37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;
38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;
39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;
40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12 ;
43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;
44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult

members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

Code 1950, § 19.1-19.2; 1966, c. 669; 1968, c. 537; 1970, c. 118; 1975, c. 495; 1976, c. 771; 1977, c. 626; 1978, c. 350; 1979, c. 480; 1981, c. 207; 1985, c. 360; 1987, cc. 130, 131; 1988, c. 851; 1989, c. 544; 1990, c. 766; 1991, c. 342; 1992, cc. 422, 641, 718, 746, 791, 844; 1993, cc. 48, 313, 348; 1994, cc. 34, 670, 700, 830; 1995, cc. 409, 645, 731, 781, 809; 1996, cc. 428, 432, 747, 881, 927, 944; 1997, cc. 169, 177, 606, 691, 721, 743, 796, 895; 1998, cc. 113, 405, 445, 882; 1999, cc. 383, 685; 2001, cc. 552, 582; 2002, cc. 370, 587, 606; 2003, c. 731; 2005, cc. 149, 914, 928; 2006, cc. 257, 277, 644; 2007, cc. 12, 361, 495, 572; 2008, cc. 387, 689, 863; 2009, cc. 667, 813, 840; 2010, cc. 189, 340, 406, 456, 524, 563, 862; 2011, cc. 432, 449; 2012, cc. 40, 189, 386, 476, 507, 803, 835; 2013, cc. 165, 176, 261, 407, 491, 582; 2014, cc. 225, 454; 2015, cc. 38, 343, 540, 730, 758, 770; 2016, cc. 454, 554, 574.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.





COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail:  
rwillia@fcva.us

### MEMORANDUM

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 10, 2017

RE: Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11  
(Methamphetamine Lab Cleanup and Removal; Responsibility for Costs;  
Determination of Amount)

Attached please find materials regarding the above proposed ordinance amendment. The Public Safety Committee, on June 15, 2017, approved forwarding this proposed ordinance to the Code & Ordinance Committee.

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail:  
rwillia@fcva.us

## MEMORANDUM

TO: Public Safety Committee

FROM: Roderick B. Williams  
County Attorney

DATE: June 9, 2017

RE: Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11  
(Methamphetamine Lab Cleanup and Removal; Responsibility for Costs;  
Determination of Amount)

Per legislation enacted by the 2012 Session of the General Assembly, 2012 Acts of Assembly, Chapters 517 and 616, localities may provide by ordinance that any person convicted for the illegal manufacture of methamphetamine shall be liable at the time of sentencing or in a separate civil action to the locality or to any other law-enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. Having a local ordinance to such effect would be helpful in ensuring that all possible avenues are available for the County to recover any costs it might be forced to incur to protect public health and safety, in those instances where no other means are available for the cleanup of methamphetamine labs. Therefore, attached are copies of the enabling legislation and of a draft ordinance, for the Committee's consideration, that would amend the County Code to make such provision.

### Attachments

cc: Sheriff's Office  
Fire Marshal's Office  
Commonwealth's Attorney's Office



**ORDINANCE**  
\_\_\_\_\_, 2017

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 122-11 (Methamphetamine Lab Cleanup and Removal; Responsibility for Costs; Determination of Amount) of Chapter 122 (Nuisances) of the Code of Frederick County, Virginia be, and the same hereby is, enacted as follows:

**§ 122-11. Methamphetamine Lab Cleanup and Removal; Responsibility for Costs; Determination of Amount.**

Any person who is convicted of an offense for manufacture of methamphetamine pursuant to Virginia Code § 18.2-248 or 18.2-248.03 shall be liable, at the time of sentencing or in a separate civil action, to the County, the Sheriff, or any other law enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal, or repair of the affected property or the replacement cost of personal protective equipment used.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Blaine P. Dunn	_____	Gene E. Fisher	_____
Judith McCann-Slaughter	_____		

A COPY ATTEST

\_\_\_\_\_  
Kris C. Tierney  
Interim Frederick County Administrator

## § 15.2-1716.2. Methamphetamine lab cleanup costs; localities may charge for reimbursement

Any locality may provide by ordinance that any person who is convicted of an offense for manufacture of methamphetamine pursuant to § [18.2-248](#) or [18.2-248.03](#) shall be liable at the time of sentencing or in a separate civil action to the locality or to any other law-enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal, or repair of the affected property or the replacement cost of personal protective equipment used.

2012, cc. [517](#), [616](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383

Fax 540/667-0370

E-mail: [rwillia@fcva.us](mailto:rwillia@fcva.us)

## MEMORANDUM

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 11, 2017

RE: Personal Property Tax – Return Filing Requirements

Attached please find a draft ordinance revision containing technical amendments to the provision governing personal property tax return filings. The Commissioner of the Revenue has suggested these amendments. The amendments clarify that the requirements apply for mobile homes and provide for annual filing of returns for mobile homes, irrespective of change of ownership and/or tax situs. The amendments also establish a uniform filing deadline of March 1 for personal property returns. For proratable personal property (non-business motor vehicles) for which there is a change of ownership and/or tax situs, the ordinance would still require the filing of a return within 60 days of the change.

Attachment



## ORDINANCE

\_\_\_\_\_, 2017

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 155-3 (Tax returns; failure to file) of Article I (General Provisions) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, amended by enacting an amended Section 155-3 (Tax returns; failure to file) of Article I (General Provisions) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia, as follows (deletions are shown in **bold strikethrough** and additions are shown in **bold underline**):

### § 155-3. Tax returns; failure to file.

A. The annual return of taxable tangible personal property **for any motor vehicle, trailer, airplane, boat,** and mobile homes **for in** the County shall be filed with the Commissioner of Revenue for the County on or before the 15th day of February of each year, except as stated in Subsections D and E; provided, further, that the annual return of taxable personal property for any motor vehicle, trailer, airplane, **or boat, and mobile home** acquired after January 1 shall be filed with the Commissioner of Revenue **on or before the 15th day of February of each year or** within 60 days from the date of acquisition or situs in the County, **whichever occurs later**. Each return shall be signed by the owner of the property. If the property is owned by an association, partnership, limited liability company, or corporation, the return shall be signed by a member, partner, executive officer, or other person specifically authorized in writing by the association, partnership, limited liability company, or corporation to sign.

B. The annual return of taxable machinery and tools, **furniture and fixtures and of taxable business tangible personal property** employed in a business or trade **for in** the County **as of January 1** shall be filed with the Commissioner of Revenue for the County on or before the **15th 1st** day of March of each year; provided, further, that the annual return of taxable machinery and tools, **furniture and fixtures and of taxable business tangible personal property** acquired after January 1 shall be filed with the Commissioner of Revenue on or before the **15th 1st** day of March of **each the following** year **or within 60 days from the date of acquisition or situs in the County, whichever occurs later**. Each return shall be signed by the owner of the property. If the property is owned by an association, partnership, limited liability company, or corporation, the return shall be signed by a member, partner, executive

officer, or other person specifically authorized in writing by the association, partnership, limited liability company, or corporation to sign.

C. A penalty for failure to file such return as required by this section shall be assessed as follows:

(1) As to a return required by subsection A, at the rate of 10% of the tax assessable or due on such property, provided that such penalty shall not be less than a minimum of \$2 and shall not be more than a maximum of \$50; and

(2) As to a return required by subsection B, at the rate of 10% of the tax assessable or due on such property or \$2, whichever shall be the greater.

D. Notwithstanding the provisions of § 155-3A, Frederick County provides for an alternative method of filing personal property tax returns for motor vehicles, trailers and boats. Such motor vehicles, trailers and boats may be assessed annually based on a previous personal property tax return filed by the owner or owners of such property. For those whose name or address has not changed since a previous filing and whose personal property has had no change in status or situs, the assessment and taxation of property shall be based on a personal property tax return previously filed with Frederick County, which hereby adopts this alternative method of filing. **Personal property tax returns for mobile homes must, however, be filed annually, even if no change occurs.**

E. Such owner or owners of motor vehicles, trailers, ~~and boats,~~ **and mobile homes** must file a new personal property tax return whenever there is:

(1) A change in the name or address of the person or persons owning such taxable personal property;

(2) A change in the situs of personal property;

(3) Any other change affecting the assessment or levy of the personal property tax on motor vehicles, trailers, ~~and boats,~~ **and mobile homes** for which a tax return has been filed previously; or

(4) Any change in which a person acquires one or more motor vehicles, trailers, ~~and boats,~~ **and mobile homes** and for which no personal property tax return has been filed.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Charles S. DeHaven, Jr., Chairman \_\_\_\_\_

Gary A. Lofton \_\_\_\_\_

Bill M. Ewing \_\_\_\_\_

Robert W. Wells \_\_\_\_\_

Blaine P. Dunn \_\_\_\_\_

Gene E. Fisher \_\_\_\_\_

Judith McCann-Slaughter \_\_\_\_\_

A COPY ATTEST

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Kris C. Tierney  
Interim Frederick County Administrator





COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail:  
rwillia@fcva.us

### MEMORANDUM

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 11, 2017

RE: Frederick County Code – Noise Ordinance

The County adopted its current noise ordinance in 1993. The ordinance uses, as its standard for whether noise is unlawful, whether a person is “annoyed, disturbed or vexed by unnecessary and unreasonable noise”. The relevant portions of the County’s animal ordinance, adopted in 1992, contain substantially the same type of prohibition with respect to barking dogs.

The Virginia Supreme Court, in 2009, decided the case of Tanner v. City of Virginia Beach, in which the Court held that a noise ordinance containing similar “unreasonableness” language was unconstitutionally vague and therefore unenforceable. In light of the decision in Tanner, the County’s prohibitions against noise may be subject to similar challenge. Accordingly, attached please find draft revisions to the noise ordinance and to the corresponding provisions of the animal ordinance.

The draft revisions adopt as the standard for prohibited noise whether the noise is “plainly audible” at certain points beyond its source. With respect to barking dogs, the draft revisions further require that barking occur at least once a minute for ten consecutive minutes in order to be prohibited.

The draft revisions otherwise generally do not deviate from the general principles in the current ordinances; the draft revisions keep the prohibition limited to the RP, R4, R5, and MH zoning districts, with the prohibition being applicable only between 9:00 p.m. and 6:00 a.m. The draft revisions also expressly provide that the prohibition does not apply to bona fide agricultural activity and further contain a list of other specific activities that are not subject to the prohibition.

Attachment



**ORDINANCE TO AMEND PROVISIONS OF COUNTY CODE REGARDING  
NOISE PROHIBITIONS  
\_\_\_\_\_, 2017**

The Board of Supervisors of Frederick County, Virginia hereby ordains that Sections 48-23 (Unreasonable noise unlawful) and 48-24 (Enforcement) of Article II (Noise) of Chapter 48 (Animals and Fowl) and that Chapter 118 (Noise) of the Code of Frederick County, Virginia be, and the same hereby are, amended by enacting an amended Section 48-23 (Unreasonable noise unlawful) and 48-24 (Enforcement) of Article II (Noise) of Chapter 48 (Animals and Fowl) and an amended Section 118-1 (Unreasonable noise unlawful) and new Sections 118-4 (Specific prohibitions) and 118-5 (Exceptions) of Chapter 118 (Noise) of the Code of Frederick County, Virginia, as follows (deletions are shown in ~~strikethrough~~ and additions are shown in underline):

**CHAPTER 48 ANIMALS AND FOWL**

**Article II Noise**

**§ 48-23 Unreasonable Specified noise unlawful.**

- A.** It shall be unlawful, after written notice by the Sheriff to the owner, custodian or person in control or possession of ~~a dog~~ **any animal**, for such person to suffer or allow such ~~dog animal~~ to **howl, bark, meow, squawk, yelp, whine,** or otherwise make ~~unreasonably loud~~ noises, ~~as are plainly audible to adjoining residents or property owners in a residential subdivision so as to unreasonably annoy, disturb, bother or vex such residents or property owners at least once a minute for ten (10) consecutive minutes:~~
- 1. In such a manner as to be plainly audible across a residential real property boundary or through partitions common to two (2) or more dwelling units within a building; or**
  - 2. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from the building in which it is located, provided that the sound is audible on another's property; or**
  - 3. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source, provided that the sound is audible on another's property.**

**B. This article shall be applicable from 9:00 p.m. to 6:00 a.m., inclusive, each day, to such noise emanating from property located within the following zoning districts as indicated on the Frederick County Zoning Map:**

- RP Residential Performance District**
- R4 Residential Planned Community District**
- R5 Residential Recreational Community District**
- MH1 Mobile Home Community District**

**C. This section shall not apply to any bona fide agricultural activity.**

**§ 48-24 Enforcement.**

Enforcement of this article shall be by the Sheriff of Frederick County **or his designee.**

**§ 48-25 Violations and penalties. [Ed. note: No change is proposed to this section]**

A violation of this article shall be punishable by a fine of not more than \$25 for the first offense and a fine of not more than \$100 for each subsequent offense. Each such occurrence shall constitute a separate offense.

**CHAPTER 118 NOISE**

**§ 118-1 ~~Unreasonable~~ Specified noise unlawful.**

**A. It shall be unlawful, after complaint from any person annoyed, disturbed or vexed by unnecessary and unreasonable noise and after notice by the Sheriff to the person creating such noise or to the owner, custodian or person in control or possession of the property from which such noise emanates or arises, for such person to suffer or allow such unnecessary and unreasonable noise to continue. At certain levels, noise can be detrimental to the health, safety, welfare, and quality of life of inhabitants of the county, and, in the public interest, such noise should be restricted. It is, therefore, the policy of the County to reduce, and eliminate where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying noises from all sources.**

**B. This chapter shall be applicable from 9:00 p.m. to 6:00 a.m., inclusive, each day, to noise emanating from property located within the following zoning classifications districts as indicated on the Frederick County Zoning Map:**

- RP Residential Performance District**
- R4 Residential Planned Community District**
- R5 Residential Recreational Community District**
- MH1 Mobile Home Community District**

**C. No person shall be charged with a violation of this section unless that person has received verbal, electronic, or written notice from a law enforcement officer of Frederick County that he is violating or has violated the provisions of this chapter and has thereafter had the opportunity to abate the noise disturbance.**

**§ 118-2 Enforcement. [Ed. note: No change is proposed to this section]**

Enforcement of this chapter shall be by the Sheriff of Frederick County.

**§ 118-3 Violations and penalties. [Ed. note: No change is proposed to this section]**

A violation of this chapter shall be punishable by a fine of not more than \$100 for the first offense and a fine of not more than \$1,000 for each subsequent offense. Each such occurrence shall constitute a separate offense.

**§ 118-4 Specific prohibitions.**

**The following acts are declared to be noise disturbances in violation of this chapter, provided that this list shall not be deemed to be an exclusive enumeration of those acts which may constitute noise disturbances and that an act not listed below may nevertheless constitute a violation of this chapter:**

- A. Prohibited Noise Generally. Operating, playing or permitting the operation or playing of any radio, television, computer, recording, musical instrument, amplifier, or similar device, or yelling, shouting, whistling, or singing, or operating or permitting the operation of any mechanical equipment:**
- 1. In such a manner as to be plainly audible across a residential real property boundary or through partitions common to two or more (2) dwelling units within a building; or**
  - 2. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from the building in which it is located, provided that the sound is audible on another's property; or**
  - 3. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source, provided that the sound is audible on another's property.**
- B. Schools, public buildings, places of worship, and hospitals. The creation of any noise on or near the grounds of any school, court, public building, place of worship, or hospital in a manner that is plainly audible within such school, court, public building, place of worship, or hospital, and which noise interferes with the operation of the institution.**

**§ 118-5 Exceptions.**

**This chapter shall have no application to any sound generated by any of the following:**

- A. **Sound which is necessary for the protection or preservation of property or the health, safety, life, or limb of any person.**
- B. **Public speaking and public assembly activities conducted on any public right-of-way or public property.**
- C. **Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.**
- D. **Parades, fireworks displays, school-related activities, and other such public special events or public activities.**
- E. **Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.**
- F. **Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.**
- G. **Religious services, religious events, or religious activities or expressions, including, but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.**
- H. **Locomotives and other railroad equipment, and aircraft.**
- I. **The striking of clocks.**
- J. **Military activities of the Commonwealth of Virginia or of the United States of America.**
- K. **Agricultural activities.**
- L. **Lawful discharge of firearms.**

Enacted this \_\_\_ day of \_\_\_, 2017.

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Blaine P. Dunn	_____	Gene E. Fisher	_____
Judith McCann-Slaughter	_____		

A COPY ATTEST

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Kris C. Tierney  
Interim Frederick County Administrator