

# ROCKBRIDGE COUNTY CODE

## Chapter 14

### FIRE, RESCUE, EMS AND EMERGENCY MANAGEMENT\*

- Art. I. Fire-Rescue Department, §§14-1--14-9**
- Art. II. Fee for Services, §§14-10--14-29**
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#### ARTICLE I. FIRE-RESCUE DEPARTMENT\*

##### Sec. 14-1. Establishment of department.

The County Department of Fire, Rescue and Emergency Medical Services (“EMS”) is hereby established pursuant to Virginia Code §27-6.1 and designated as the Fire-Rescue Department (the “Department”). The Department shall provide all fire, rescue, and emergency medical services, and services related to civilian protection and evacuation in disasters and emergencies. The Department shall also be responsible for administration of local, State and federal emergency response, assistance, and recovery programs within the County. (Sec. 1 Amended by Ord. of 7-27-20, to be effective 9-1-20)

##### Sec. 14-2. Composition of department.

The Department shall be composed of the officials and staff of the Department, including the following volunteer Fire-Rescue agencies, which are an integral part of the official safety program of the County:

- (1) Effinger Volunteer Fire Department;
- (2) Fairfield Volunteer Rescue Squad;
- (3) Glasgow Lifesaving and First Aid Crew;
- (4) Glasgow Volunteer Fire Department;

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\* **Cross reference(s)**--Office of emergency services, §2-131 et seq.; fire protection at musical or entertainment festivals, §4-19(8); buildings and building regulations, Ch. 7; law enforcement, Ch. 18; stopping, parking or impeding traffic by vehicle parked in fire lane, §20-41; failure to yield right-of-way to firefighting vehicles, §20-125; stopping in vicinity of fire or emergency, §20-263; emergency vehicles, §20-346 et seq.; following or parking near fire apparatus or rescue squad vehicle, §20-347; driving over fire hose, §20-348.

**State law reference(s)**--Fire protection, Code of Virginia, §27-1 et seq.

- (5) Goshen First Aid Crew;
- (6) Goshen Volunteer Fire Department;
- (7) Kerr's Creek Volunteer Fire Department;
- (8) Natural Bridge Volunteer Fire Department;
- (9) Raphine Volunteer Fire Department;
- (10) Rockbridge Baths Volunteer Fire Department;
- (11) South River Volunteer Fire Department;
- (12) Walkers Creek Volunteer Fire Department.

The Lexington Fire Department, Buena Vista Volunteer Fire Department and Buena Vista Volunteer Rescue Squad are also integral parts of the County's official safety program, but are not administered or regulated under this Chapter. However, Fire-Rescue operations of all regional entities are intended to be coordinated through regional protocols, in the interest of providing the safest, most effective and most efficient fire, rescue, and emergency medical services possible.

(South River District Added 3-06-03 (formerly Sec. 1); Sec. 2 Amended by Ord. of 9-23-13 (formerly Section 1); Sec. 2 Amended by Ord. of 7-27-20, to be effective 9-1-20)

**Cross reference(s)**--Similar provisions, §18-1.

**State law reference(s)**--Code of Virginia, §9.1-400--408 and §27-23.6.

### **Sec. 14-3. Responsibilities of department.**

A. The Department shall be responsible for regulating and managing the provision of pre-hospital emergency patient care and transportation.

B. The Department shall be responsible for regulating and managing the provision of fire prevention, protection, and suppression services, and for provision of services related to hazardous materials and similar hazards which pose a threat to life, property and the environment.

C. The Department shall also be responsible for any additional related services which are necessary for the provision of fire, rescue, and emergency medical services.

D. The Department shall be responsible for local disaster mitigation, preparedness, response and recovery. The Chief and coordinator, and any deputies of emergency management, shall be designated by the Board of Supervisors, in accordance with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000, Virginia Code §§44-146.13, et seq. (Sec. 3(C), (D) Amended by Ord. of 7-27-20, to be effective 9-1-20)

**Sec. 14-4. Fire-Rescue Chief services.**

A. The Fire-Rescue Chief shall be appointed by and report to the County Administrator, shall be the Chief of the Department, and shall provide general management of the Department.  
(Sec. 4(A) Amended by Ord. of 11-10-20)

B. The Chief may delegate any and all operational authority to other officials and staff of the Department. References to the Chief in this Chapter shall include designees.

C. The Chief shall establish and enforce departmental regulations that are required for the administration and operation of the Department, for purposes of providing the safest, most effective and most efficient fire, rescue, and emergency medical services possible. Such regulations shall be consistent with this Chapter, but may establish additional and more stringent requirements applicable to the Department. Development will be coordinated with the Rockbridge Volunteer Emergency Officers Association. In no event shall any County or departmental regulations or directives be interpreted to waive requirements of federal, State and local laws and regulations, including those related to licensing. Regulations shall include, but may not be limited to:

- (1) Standard operating guidelines for the system's delivery of fire, rescue, emergency medical, and emergency management services;
- (2) System performance standards, such as minimum staffing and response goals;
- (3) A command structure which complies with federal and State incident management standards;
- (4) Minimum training, licensure, and reporting requirements for the welfare of response personnel and the delivery of high quality fire, rescue, emergency medical, and emergency management services;
- (5) Minimum personnel standards applied to all members shall include all standards promulgated by the Fire-Rescue Chief to maintain compliance with existing law or policy. At minimum, these shall include the standards promulgated by the Virginia Office of Emergency Medical Services as set forth in §12VAC5-31-910 of the Virginia Administrative Code. However, an existing member or potential member, who has been convicted of an offense which permanently bars certification by the Virginia Office of EMS, may be considered for participation under the following conditions:
  - a. A minimum of ten (10) years must have passed since the date of conviction;

- b. In the case of a felony, the applicant's rights must have been restored by the Commonwealth of Virginia;
- c. The applicant demonstrates clear and successful efforts to reform and productively contribute to society and their community.

Such language shall be included in policy promulgated by the Fire-Rescue Chief and shall not be construed to supersede State or federal law, policy or regulation.

- (6) Minimum standards regarding apparatus and equipment;
- (7) Vehicle operations policy;
- (8) Drug and alcohol policy;
- (9) A process for setting and maintaining response districts and apparatus response policy.

Individual volunteer Fire-Rescue agencies may promulgate internal policies affecting their agency. In the event that agency and County policies conflict, the more stringent of the two shall apply.

D. The Chief shall recommend hiring, appointing and termination of compensated officers and staff of the Department, including the deputies and assistants, in accordance with the County's Personnel Policy Manual. The Chief shall provide for appropriate investigation of staff and volunteer applicants and incumbents, including review of criminal and driving records. Deputies and assistants may perform any of the duties of the Chief, when authorized by the Chief. At the request of individual volunteer agencies, the Chief may assist with the termination of members. Prior to any termination, volunteers will be afforded due process, to include a review by a panel consisting of representatives from their volunteer agency.

E. The Chief is responsible for maintenance and implementation of the County's Emergency Operations Plan.

F. The Chief, on behalf of the Board of Supervisors, shall have authority to enter into and take all actions necessary to implement and carry out the terms of agreements for mutual aid, disaster preparedness, and provision of services related to hazardous materials, rescue, fire suppression, investigation, medical services or other emergency response services deemed necessary in the judgment of the Chief for emergency response in events exceeding the capabilities of the County. The Chief shall have the authority to enter into contracts on behalf of the County and to expend funds after a declared disaster or emergency declaration to provide for the public safety during such events, in accordance with applicable laws and regulations. The Chief shall have the authority to take all actions necessary to obtain funding and assistance from other localities and from State or federal agencies for those purposes.

G. The Chief shall, in cooperation with Rockbridge Volunteer Emergency Officers Association, develop strategies for the recruitment and retention of the volunteer base within the Department.

(Secs. 4 (A), (B), (C), (D), (E), (F), (G) Amended by Ord. of 7-27-20, to be effective 9-1-20;  
Sec. 4(G) Amended by Ord. of 11-10-20)

**Sec. 14-5. Criminal and driving record checks.**

A. Review of the criminal records of applicants for employment and volunteer status in the Department shall be conducted in the interest of public welfare and safety, and review of such records of incumbents may be conducted, to determine if the past criminal conduct of any person with a criminal record would be compatible with the nature of the employment or service, in accordance with applicable laws and policies.

B. Review of motor vehicle driving records of incumbents and of applicants for employment or volunteer status shall be conducted in accordance with departmental regulations, to determine if the record is compatible with employment or service.

**Sec. 14-6. Compliance with regulations and policies; penalties.**

A. Compliance with all applicable federal, State, and local regulations and directives of the Chief, by the officials, staff, volunteers and agencies of the Department is a requirement for participation in all departmental functions.

B. For violation of regulations and policies promulgated by the Chief or the medical Chief, or for the purpose of protecting the public safety and providing for proper administration of the Department and effective provision of services, the Chief shall have the authority to remove, suspend, or revoke the privileges of any individual to operate as an EMS or fire service provider or officer in the County.

C. The Fire-Rescue Department will develop and disseminate a standard operating procedure (SOP) clearly defining the procedure for revocation of such privileges. The standard shall include a grievance procedure.

(Secs. 6 (A), (B), (C) Amended by Ord. of 7-27-20, to be effective 9-1-20)

**Sec. 14-7. Volunteer Fire-Rescue agencies.**

A. The Rockbridge County Board of Supervisors recognizes the longstanding history and the tremendous value and contribution that volunteer Fire-Rescue agencies have made and continue to make in the community. Volunteer Fire-Rescue agencies may be formed, named and dissolved and shall operate in compliance with applicable statutes, provisions of this Chapter and all applicable regulations, including those issued by the Chief. Formation, naming and dissolution shall be effective only if approved by the Board of Supervisors.

B. Volunteer Fire-Rescue agencies may adopt bylaws to govern the internal affairs of their organizations. In the event that agency bylaws conflict with County policies, the more stringent of the two shall apply.

C. Agencies may, in accordance with their bylaws and compliance with State Code, dissolve. However, prior to such dissolution, agencies shall provide no less than a thirty-day notice to the Rockbridge County Department of Fire-Rescue.

(Secs. 7 (A), (B), (C) Amended by Ord. of 7-27-20, to be effective 9-1-20)

**State law reference(s)**--Code of Virginia, §27.1-8.1; §32.1-111.14.

#### **Sec. 14-8. Participation by certain minors in volunteer fire agency activities.**

A. Subject to any regulations published by the Rockbridge County Fire-Rescue Department and pursuant to the authority of Virginia Code §40.1-79.1, the County of Rockbridge hereby authorizes any person who is sixteen (16) years of age or older, who is a member of a volunteer fire agency within the County with parental or legal guardian approval, in writing: (i) to seek certification under National Fire Protection 1001, level one, firefighter standards, as administered by the Virginia Department of Fire Programs; and (ii) to work with or participate fully in all activities of such volunteer fire agency, provided such person has attained certification under the National Fire Protection Association 1001, level one, firefighter standards, as administered by the Virginia Department of Fire Programs. The certification record and parent or guardian written consent shall be kept on file in the office of the volunteer fire department for each participant who is enrolled pursuant to this Section. Any such fire fighting activity shall comply with regulations set forth in 16VAC15-30-190 "Fire fighting" of the Virginia Administrative Code.

B. Any trainer or instructor of such persons referenced in Subsection (A) of this Section and any member of a paid or volunteer fire company who supervises any such persons shall be exempt from the provisions of Virginia Code §40.1-103 when engaged in activities of a paid or volunteer fire company, provided that the provisions of Virginia Code §40.1-100 have not been violated, and provided that the volunteer fire agency or the Board of Supervisors has purchased insurance which provides coverage for injuries to, or the death of, such persons in their performance of activities under this Section.

(Sec. 8 Added by Ord. of 8-23-04 (formerly Sec. 2); Sec. 8 Amended by Ord. of 9-23-13

(formerly Sec. 2); Sec. 8(A) Amended by Ord. of 7-27-20, to be effective 9-1-20)

**State law reference(s)**--Code of Virginia, §40.1-79.1.

#### **Sec. 14-9. Participation by certain minors in volunteer EMS activities.**

Subject to any regulations published by the Rockbridge County Fire-Rescue Department pursuant to authority and in accordance with §12VAC5-31-1200 and §12VAC5-31-900 of the Virginia Administrative Code:

(1) EMS personnel shall be a minimum of sixteen (16) years of age.

- (2) EMS personnel serving in a required staffing position on an EMS vehicle shall be at a minimum of eighteen (18) years of age.
- (3) EMS agencies may allow assistants or observers in addition to the required personnel. An assistant or observer must be at a minimum of sixteen (16) years of age.
- (4) An EMS agency may have associated personnel who are less than sixteen (16) years of age. This person is not allowed to participate in any EMS response, training program or any other activity that may involve exposure to communicable disease, hazardous chemical or other risk of serious injury.

(Secs. 1-9 Added by Ord. of 9-23-13, to be effective 01-31-14; Sec. 9 Amended by Ord. of 7-27-20, to be effective 9-1-20)

**State law reference(s)**--Code of Virginia, §§32.1-12 and 32.1-111.4.

## ARTICLE II. FEE FOR SERVICES

### Sec. 14-10. Definitions.

As used in this Chapter, the following words and phrases shall have the meanings as set forth in this Section, unless the context clearly indicates a different meaning:

*Ambulance* shall mean any publicly or privately owned vehicle that is specially designed, constructed or modified and equipped for, and is intended to be used for and is maintained or operated to provide, immediate medical care to or transport of persons who are sick, injured, wounded or otherwise incapacitated or helpless.

*Emergency* shall mean an unforeseen condition or circumstance in which there is a need for immediate medical care in order to prevent loss of life or aggravation of illness or injury.

*Emergency medical services vehicle* shall mean an ambulance, rescue squad vehicle, fire truck or other government-owned vehicle which may be used for or is maintained or operated to provide immediate medical care to, or transport of, persons who are sick, injured, wounded or otherwise incapacitated or helpless.

*Patient* shall mean an individual who is sick, injured, wounded or otherwise incapacitated or helpless.

*Permit* shall mean a permit issued by the County Administrator or his/her designee, authorizing the operation of an ambulance.

*Person* shall mean an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind.

**Sec. 14-11. Charges for ambulance services.**

The Board of Supervisors may establish by Resolution, as needed from time to time, upon recommendation of the Fire and Rescue Commission and/or the County Administrator, reasonable fees for the provision of emergency medical services by all emergency medical service personnel, whether volunteers or paid public employees, and by all private ambulances operating under a permit issued pursuant to this Article.

**Sec. 14-12. Permit required; exceptions.**

A. No person shall operate or cause to be operated a private ambulance or emergency medical services vehicle from within the County to any other location within or outside the County, unless such person possesses a permit; provided, however, that a separate permit shall not be required for an individual operating an ambulance or emergency services vehicle for, or on behalf of, an entity or organization which has been issued a permit under this Article.

B. The County Administrator, or his/her designee, upon recommendation from the Rockbridge Volunteer Emergency Officers Association, is authorized to determine and prescribe the areas of service within which a permit holder may operate within the County so as to assure adequate coverage throughout the geographical area of the County. Further, the number of permits for ambulances or emergency medical service vehicles in the County may be limited to achieve the objectives of this Article.

(Sec. 12(B) Amended by Ord. of 11-10-20)

C. No permit shall be required for operation of a private ambulance or emergency medical services vehicle which is:

- (1) Engaged in the transportation of a person from a point beyond the limits of the County to a location within the County; or
- (2) Engaged in the transportation of a person through the County.

D. No permit shall be required for operation of a private ambulance or emergency medical services vehicle when used to render assistance at the request of the Fire-Rescue Chief, in the case of a major catastrophe or emergency with which the vehicles which have received a permit to operate in the County are insufficient or unable to cope.

(Sec. 12(D) Amended by Ord. of 1-23-23)

E. The provisions of this Article shall not apply to any ambulance or emergency medical services vehicle owned and operated by the County of Rockbridge, without its consent.

**Sec. 14-13. Volunteer rescue squads and governmental agencies.**

Volunteer rescue squads and volunteer fire departments, and the members thereof who are acting in such capacity, and agencies of the County and its employees who are acting in any capacity of emergency services, shall be subject to the provisions of this Chapter; provided,

however, that the rescue squads set forth in Section 14-2 of this Chapter and the Effinger and Kerr's Creek Fire Departments shall be deemed to hold a permit under this Article, so long as such squad or department maintains a current permit from the Commonwealth for operation of an ambulance or emergency medical services vehicle, and so long as said rescue squads and fire departments otherwise comply with the provisions of this Article, including submission to the County of the documentation set forth in Section 14-15 within ninety (90) days of the adoption hereof.

#### **Sec. 14-14. Permit--Application.**

Any person who desires a permit shall file a sworn application with the County Administrator, or his/her designee, on a form prepared and provided for that purpose. The application shall include evidence of compliance with the terms and provisions of this Chapter and such other information as the County Administrator, or his/her designee, shall require.

#### **Sec. 14-15. Same--Requirements.**

No person shall be issued a permit unless he:

- (1) Furnishes proof that he possesses a valid permit issued by the Commonwealth to operate an ambulance or emergency medical service vehicle;
- (2) Files a schedule of rates to be charged for services rendered under the permit which shall not be less than the charges authorized by Section 14-11;
- (3) Agrees in writing to comply with the terms and conditions of this Chapter, other provisions of this Code, any reasonable rules and regulations developed by the County Administrator or his/her designee for the implementation of this Article, the County of Rockbridge Billing for Services Policies and Procedures adopted by the Board of Supervisors, and applicable State and federal laws and regulations;
- (4) Agrees in writing to provide mutual aid assistance, if available, in any emergency situation upon the request of the County;
- (5) Provides an appropriate certificate of insurance, or certificate of self-insurance where appropriate, indicating the following minimum coverages: motor vehicular liability insurance of One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) annual aggregate and general liability insurance of One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) annual aggregate. The certificate of insurance shall contain a clause obligating the company issuing the same to give fifteen (15) days' notice in writing to the County Administrator before the cancellation of such policies. The County shall be named as an additional insured on such policies of insurance as its interests may appear.

**Sec. 14-16. Same--Issuance or denial.**

A. The County Administrator, or his/her designee, upon consideration of the requirements set forth in this Chapter, shall grant or deny the request for permit. The decision of the County Administrator, or his designee, shall be in writing and he/she shall mail a copy thereof to the applicant at the address listed on his/her application.

B. Any person who is denied a permit by the County Administrator, or his/her designee, may appeal the same to the Board of Supervisors, by written notice filed with the Clerk of the Board within thirty (30) calendar days of the date of the mailing of the County Administrator's/designee's decision. The Board of Supervisors, after such notice, investigation and hearing as it may deem appropriate, may affirm, reverse or modify the prior decision, or may remand the matter for further investigation or action.

**Sec. 14-17. Duty to give notice of change of circumstances.**

The applicant for a permit or, if a permit has been granted, the holder of a permit shall immediately give notice in writing to the County Administrator of any change in the information set forth in the application for permit, including, without limitation, any change in rates, insurance coverage, or the ownership of fifty percent (50%) or more of the common stock of the corporation which has applied for or has received the permit.

**Sec. 14-18. Current holders of certificates of public convenience and necessity.**

Any person who, on the effective date of this Ordinance, holds a certificate of public convenience and necessity issued by the County or the Commonwealth licensing the operation of an ambulance or vehicle for the transportation of handicapped persons, and continues to operate as such, and that submits to the County Administrator satisfactory evidence of such continuing operation, shall be granted a franchise or permit to serve at least that part of the County in which the agency has continuously operated if all other requirements of this Article are met. Any such person may, for a period of sixty (60) calendar days after the effective date of this Article, continue to operate same within the County, and thereafter, such person shall be required to have a permit issued by the County Administrator, or his/her designee.

**Sec. 14-19. Suspension or revocation of permit.**

A. Any permit issued under this Chapter may be suspended or revoked by the County Administrator, or his/her designee, after a hearing, for failure to comply with the provisions of Title 32.2, Chapter 4, Article 2.1 of the Code of Virginia or of this Chapter or any other provision of local, State or federal law, regulation, policy or procedure. Such hearing shall be held after ten (10) calendar days' prior written notice, mailed to the permit holder at the address listed on his application or any subsequent written notification of change of address. After the hearing, the County Administrator, or his/her designee, shall render his decision in writing and shall mail a copy thereof to the permit holder at the address described above. The decision of the County Administrator, or his/her designee, shall be effective as of the date established in his decision and shall not be stayed pending the outcome of any appeal.

B. Any permit holder affected by an adverse decision of the County Administrator may appeal the same to the Board of Supervisors by written notice filed with the Clerk of the Board within thirty (30) calendar days of mailing of the County Administrator's final decision. Upon proper filing of such appeal, after such notice and hearing as the Board of Supervisors may deem appropriate, the Board may affirm, reverse, or modify the County Administrator's decision, or may remand the matter for further investigation or action.

**Sec. 14-20. Sale, assignment, etc. prohibited.**

No permit granted under this Article may be sold, assigned, or transferred, nor shall it in any way vest in any person, other than the applicant to whom the permit is granted, any rights or privileges under the permit. For purposes of this Section, the transfer of ownership of fifty percent (50%) or more of the common stock of a corporation which has been granted a permit shall be deemed to be a transfer of the permit.

**Sec. 14-21. Authorization to provide nonemergency services; response to emergencies permitted under limited conditions.**

A. The holder of a permit shall be authorized to respond to requests for non-emergency service. Response to emergencies shall not be permitted unless:

- (1) A specific request for service is made by the Fire-Rescue Chief in the event of a major catastrophe or emergency. Notification of request can be made via phone or by the regional emergency communication center; or,
- (2) A situation is coincidentally observed by the owner or operator of the ambulance which requires immediate emergency medical services attention.

(Sec. 21(A)(1) Deleted by Ord. of 1-23-23; Secs. 21(A)(1),(2) (formerly Secs. 21(A)(2),(3), respectively, Amended by Ord. of 1-23-23)

B. A permit holder who provides ambulance or emergency medical service under emergency conditions shall give immediate notice of such response at the time of response to the County's emergency dispatch/E-911 center.

**Sec. 14-22. Operations within the County.**

A. As a condition of the permit, the permit holder agrees to provide service throughout the geographic area as specified by the permits, which may include the City of Lexington, the City of Buena Vista, the Town of Glasgow and/or the Town of Goshen.

B. The provisions of this Chapter shall be effective in the Towns of Glasgow and Goshen unless or until either town elects to exercise any of the powers set forth in Paragraphs A and B of §32.1-111.14 of the Code of Virginia.

C. No permit holder shall refuse to transport any person in the County to any hospital emergency room, approved by the County Administrator or his/her designee, in the County or an adjoining city without just cause. For purposes of this Section, the term “just cause” shall include unavailability of qualified personnel or vehicles.

**Sec. 14-23. Service logs.**

Every permit holder shall maintain accurate service logs of operations undertaken in accordance with its permit. Such service logs shall include, with regard to each request for ambulance service, the time and date the request was received, the location of the patient on whose behalf the request was made, the time the ambulance arrived at the location, the destination and time of arrival at the destination. If the request was denied, the log shall indicate the reason for such denial. In addition, the service log shall include any other information required by the County Administrator, or his/her designee. Such logs shall be maintained for a period of three (3) years and made available for inspection by authorized representatives of the County upon reasonable request.

**Sec. 14-24. Powers and responsibilities of the County Administrator.**

The County Administrator, or his/her designee, is hereby authorized to exercise the following powers and responsibilities in order to effectively achieve the purposes of this Article, as follows:

- (1) To establish reasonable rules and procedures for imposing and collecting authorized fees for the provision of emergency medical services;
- (2) To write off as uncollectible any accounts which are reasonably deemed to be uncollectible;
- (3) To exercise such other reasonable powers and authority as shall be necessary for the proper administration of this Article; and
- (4) To seek recommendation from the Regional Fire and Rescue Commission, when appropriate, in the administration of this Article.

(Art. II, Secs. 10-24 Added by Ord. of 2-28-11)

**Secs. 14-25--14-29. Reserved.**

**ARTICLE III. DROUGHT MANAGEMENT**

**Sec. 14-30. Drought Management.**

The purpose of this Article is to provide for the voluntary and mandatory restriction of use of the Rockbridge County public water supply system during declared water shortages or water emergencies.

**Sec. 14-31. Scope.**

This Article shall apply to all Rockbridge County residents and businesses which are served by the public water system.

**Sec. 14-32. Drought Response Plan.**

The Board of Supervisors shall adopt by Resolution the Upper James River Basin Drought Preparedness and Response Plan.

**Sec. 14-33. Drought Indicators.**

The indicators used to indicate drought severity shall be defined in the Upper James River Basin Drought Preparedness and Response Plan.

**Sec. 14-34. Drought Stages.**

The drought stages shall be Drought Watch, Drought Warning, and Drought Emergency, as determined by the Board, pursuant to the Upper James River Basin Drought Preparedness and Response Plan and State Water Control Board Regulation 9 VAC 25-120.

**Sec. 14-35. Declaration.**

Upon notification to the Board that a drought stage exists, as defined in Section 14-34 of this Article, the Board may issue a declaration of a drought stage. The County may declare a drought stage in the absence of a declaration by the Commonwealth of Virginia. The County must declare a drought stage upon declaration by the Commonwealth of Virginia.

**Sec. 14-36. Drought Stage Responses.**

Upon declaration by the Board 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.

**Sec. 14-37. Open Burning Ban.**

A. When it is deemed necessary by the Fire-Rescue Department, at any time, due to drought or other conditions that create an imminent or extraordinary fire hazard, including a threat to life or property, or a public nuisance as provided in the Virginia Statewide Fire Prevention Code, F-301.10, the Fire-Rescue Chief, in consultation with the County Administrator, may issue a declaration that open burning or fires are prohibited in part or all of the County. Following such a declaration, it shall be unlawful for any person to burn brush, grass, leaves, trash, debris or any other flammable material, or to ignite or maintain any open fire, within the County or within any part of the County subject to the prohibition. The

declaration shall remain in effect until the Fire-Rescue Chief issues a declaration that the condition no longer exists and the prohibition is terminated.

B. When any such declaration is issued, amended or rescinded, the Fire-Rescue Chief shall promptly post a copy of the declaration, amendment or rescission on the County website, at the County Administration building, the Fire-Rescue Department building, and at each fire station in the area of the County in which the emergency has been declared, and shall publish notice of the declaration, amendment or rescission in a newspaper of general circulation.

C. A violation of this Section shall constitute a class 1 misdemeanor. Each separate incident may be considered a new violation.

#### **Sec. 14-38. Waiver of Restrictions.**

Upon prior written request by an individual, business, or other water user, the Board, 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 Board or its designee unless the Board or its designee determines that the public health, safety, and welfare will not be adversely affected by the waiver. All waivers granted by the Board or its designee shall be reported at the Board's next regular or special meeting.

#### **Sec. 14-39. Penalties.**

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not less than One Hundred Dollars (\$100.00), nor more than Two Hundred Fifty Dollars (\$250.00), except as provided in Section 14-37. Each act or each day's continuation of the violation shall be considered a separate offense.

(Article III, Secs. 30-39 Added by Ord. of 10-24-11, to be effective 11-01-11; Article III, new Sec. 37 (former Sec. 37 re-numbered to 38) Added by Ord of 7-27-20, to be effective 9-1-20, Sec. 39 (former Sec. 38) Amended by Ord. of 7-27-20, to be effective 9-1-20; Sec. 39 (former Sec. 40) Deleted by Ord. of 7-27-20, to be effective 9-1-20)

### **ARTICLE IV. HAZARDOUS MATERIALS INCIDENTS**

#### **Sec. 14-40. Reimbursement for removal of hazardous materials.**

A. The Fire-Rescue Chief is hereby designated as the hazardous materials coordinator for the County.

B. Hazardous materials in any quantity shall not be released into a sewer, storm drain, ditch, drainage canal, creek, stream, river, lake or tidal waterway or on the ground, sidewalk, street, highway or into the atmosphere unless otherwise permitted by the Virginia Statewide Fire Prevention Code.

C. The person, firm, corporation, or person-in-charge, who is responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effect of such unauthorized discharge, whether sudden or gradual, at no cost to the County. The Fire-Rescue Chief may require records and receipts to verify cleanup and proper disposal of unauthorized discharges. When deemed necessary by the Fire-Rescue Chief, cleanup may be initiated by the Fire-Rescue Department or by an authorized individual or firm, and the responsible party shall be liable for all costs associated with such cleanup.

D. If the County or any agent for the County responds to an incident, accident or emergency involving hazardous or toxic materials, as that term is defined in Section 44-146.34 of the Code of Virginia, (1950, as amended) and in the Virginia Statewide Fire Prevention Code, and the County or any agent for the County undertakes to clean up or otherwise alleviate the danger of the hazardous materials, the responsible party or parties shall reimburse the County for all costs and expenses incurred by the County in cleaning up or otherwise alleviating the danger of such hazardous materials, which costs and expenses are in excess of the County's normal operating costs. Such costs shall include, but shall not be limited to, costs for non-reusable supplies and equipment, consultants' costs, workers' compensation, and overtime pay for personnel engaged in the cleanup.

E. The term "responsible party" shall include, but not be limited to, the owner, occupier or possessor of the premises where the hazardous materials are located, the owner or agent of the owner of the hazardous materials which escaped, spilled or were released, and the owner or agent of the owner who was transporting or otherwise responsible for such hazardous materials and whose negligent acts or omissions caused the escape, spill, release or accumulation of such hazardous materials.

F. Costs and expenses incurred by the Fire-Rescue Department or any emergency services personnel, whether volunteers or paid public employees, for cleanup or otherwise alleviating the danger of hazardous materials shall be reimbursed by the responsible party at the rates and costs established by Resolution of the Board of Supervisors, as needed from time to time.

(Art. IV, Secs. 40-45 Added by Ord. of 9-26-22)