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**Chapter 38 OFFENSES AND MISCELLANEOUS PROVISIONS\***

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**\*Charter reference(s)**--Police regulations, § 17.

**Cross reference(s)**--Traffic and vehicles, ch. 62.

**State law reference(s)**--Crimes and offenses generally, Code of Virginia, tit. 18.2; local ordinances prohibiting obscenity, Code of Virginia, § 18.2-389.

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**ARTICLE I. IN GENERAL**

**Sec. 38-1. Assault and battery.**

(a) Any person who shall commit a simple assault or assault and battery shall be guilty of a class 1 misdemeanor; and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, 30 days of which shall not be suspended, in whole or in part.

(b) As used in this section, the term "mandatory, minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part, and that no probation shall be given by the court.

(Code 1981, § 5-1)

**State law reference(s)**--Assault and battery, Code of Virginia, § 18.2-57.

**Secs. 38-2--38-30. Reserved.**

**ARTICLE II. OFFENSES AGAINST PROPERTY\***

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**\*Cross reference(s)**--Businesses, ch. 14.  
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**Sec. 38-31. Petit larceny defined; how punished.**

Any person who:

- (1) Commits larceny from the person of another of money or other thing of value of less than \$5.00; or
- (2) Commits simple larceny not from the person of another of goods and chattels of the value of less than \$200.00, except as provided in Code of Virginia, § 18.2-95(iii);

shall be deemed guilty of petit larceny, which shall be punishable as a class 1 misdemeanor.

(Code 1981, § 5-2)

**Cross reference(s)**--Definitions generally, § 1-2.

**State law reference(s)**--Petit larceny, Code of Virginia, § 18.2-96.

**Sec. 38-32. Shoplifting.**

(a) Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price, or of defrauding the owner of the value of the goods or merchandise:

- (1) Willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment;
- (2) Alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another; or
- (3) Counsels, assists, aids or abets another in the performance of any of the above acts;

shall, if the value of the goods or merchandise is less than \$200.00, be deemed guilty of larceny. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises, shall be prima facie evidence of an intent to convert and defraud the owner out of the value of the goods or merchandise.

(b) Any person convicted for the first time of an offense under this section when the value of the goods or merchandise involved in the offense is less than \$200.00 shall be punished as for a class 1 misdemeanor.

(c) A merchant, agent or employee of the merchant who causes the arrest or detention of any person pursuant to the provisions of Code of Virginia, § 18.2-95 or 18.2-96, or this section shall not be held civilly liable for unlawful detention, if such detention does not exceed one hour, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested or detained, whether such arrest or detention takes place on the premises of the merchant, or after close pursuit from such premises by such merchant, his agent or employee, provided that, in causing the arrest or detention of such person, the merchant, agent or employee of the merchant had at the time of such arrest or detention probable cause to believe that the person had shoplifted or committed willful concealment of goods or merchandise. As used in this subsection, "agents of the merchant" shall include attendants at any parking lot owned or leased by the merchant, or generally

used by customers of the merchant through any contract or agreement between the owner of the parking lot and the merchant.

(Code 1981, § 5-3(A), (B), (D))

**State law reference(s)**--Similar provisions, Code of Virginia, §§ 18.2-103--18.2-106.

**Sec. 38-33. Punishment for conviction of larceny.**

When a person is convicted of an offense of larceny or any offense deemed to be or punished as larceny under any provision of this Code, and it is alleged in the warrant or information on which he is convicted, and admitted, or found by the jury or judge before whom he is tried, that he has been before convicted in the commonwealth or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies or a combination of the two, he shall be confined in jail not less than 30 days nor more than 12 months.

(Code 1981, § 5-3(C))

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-104.

**Sec. 38-34. Tampering with coin-operated devices with intent to steal.**

Any person who enters, forces or attempts to force an entrance into, tampers with or inserts any part of an instrument into any parking meter, vending machine, pay telephone, money changing machine or any other device designed to receive money, with intent to steal from such device, shall, for the first conviction, be guilty of a class 1 misdemeanor.

(Code 1981, § 5-4)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-152.

**Sec. 38-35. Tampering with utility metering devices; diverting utility service.**

(a) Any person who shall tamper with any metering device incident to any oil, telegraph, telephone, electric, telecasting, gas, sewer, wastewater or water facility, or otherwise intentionally prevent such a metering device from properly registering the degree, amount or quantity of such service supplied, or who shall divert such service, excepting, however, telephonic or electronic extension service not owned or controlled by any such company, without authorization from the

owner of such facility who or which furnishes such service to the public, shall be guilty of a class 1 misdemeanor.

(b) The presence of any metering device found to have been altered, tampered with or bypassed in a manner that would cause such metering device to inaccurately measure and register the degree, amount or quantity of such service supplied or that would cause such service to be diverted from the recording apparatus of the meter shall be prima facie evidence of intent to violate and of the violation of this section by the person to whose benefit it is that such service be unmetered, unregistered or diverted.

(Code 1981, § 5-5)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-163.

**Sec. 38-36. Injuring property.**

If any person unlawfully destroys, defaces, damages or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages or removes without the intent to steal, any monument erected for the purpose of marking the site of any engagement fought during the War between the States, or for the purpose of designating the boundaries of any city, town, tract of land, or any tree marked for that purpose, he shall be guilty of a class 1 misdemeanor if the value of or damage to the property or monument is less than \$1,000.00. The amount of loss caused by the destruction, defacing, damage or removal of such property or monument may be established by proof of the fair market cost of repair or fair market replacement value.

(Code 1981, § 5-6)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-137.

**Sec. 38-37. Damaging public buildings and public property.**

Any person who willfully and maliciously breaks any window or door, damages or defaces or destroys any property in or on the property of the town hall or in or on other public buildings or public grounds shall be guilty of a class 1 misdemeanor if the damage is less than \$1,000.00.

(Code 1981, § 5-7)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-138.

**Sec. 38-38. Breaking, injuring, defacing, destroying or preventing the operation of vehicle, aircraft or boat.**

Any person who shall individually or in association with one or more others willfully break, injure, tamper with or remove any part of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying the vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-8(A))

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-146.

**Sec. 38-39. Entering or setting in motion vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions.**

Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a class 1 misdemeanor; except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(Code 1981, § 5-8(B))

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-147.

**Sec. 38-40. Bona fide repossession under lien.**

The provisions of sections 38-38 and 38-39 and Code of Virginia, § 18.2-102, shall not apply to a bona fide repossession of a vehicle, aircraft, boat or vessel by the holder of a lien on such vehicle, aircraft, boat or vessel, or by the agents or employees of such lienholder.

(Code 1981, § 5-8(C))

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-148.

**Sec. 38-41. Waterworks and sewage collection and disposal facilities; injuring, defacing.**

No person shall injure or deface any sewage disposal facility, pump station or any building or other fixture connected with or pertaining to any waterworks, or sewage facility, without lawful authority, climb over or get through the enclosure around such facility and waterworks, or place any building material or other thing on the stopcock or other fixture of a street water main or other service pipe so as to obstruct access thereto, or remove or injure any pipe, fireplug, hydrant or stopcock, or use water from the waterworks for any other purpose for which he has not obtained permission.

(Code 1981, § 5-9)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-119.

**Sec. 38-42. Trespass after having been forbidden to do so; penalties.**

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area of the premises, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge of the premises, or after having been forbidden to do so by a sign posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area at a place where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, or 16.1-279.1, or an ex parte order issued pursuant to Code of Virginia, § 20-103, and after having been served with such order, he shall be guilty of a class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132 through 18.2-136.

(Code 1981, § 5-10)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-119.

**Sec. 38-43. Instigating trespass by others; preventing service to persons not forbidden to trespass.**

If any person shall solicit, urge, encourage, exhort, instigate or procure another to go upon or remain upon the lands, buildings or premises of another, or any part, portion of area of such lands, buildings or premises, knowing such other person to have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge of such lands, buildings or premises, or knowing such other person to have been forbidden to do so by a sign posted on such lands, buildings, premises or part, portion or area of such lands, buildings or premises, at a place where it may reasonably be seen, or if any person shall, on such lands, buildings, premises or part, portion or area of such lands, buildings or premises, prevent or seek to prevent the owner, lessee, custodian, person in charge or any employees from rendering service to any person not so forbidden, such person shall be deemed guilty of a class 1 misdemeanor.

(Code 1981, § 5-11)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-120.

**Sec. 38-44. Peeping or spying into structure occupied as dwelling.**

If any person enters upon the property of another and secretly or furtively peeps, spies or attempts to peep or spy into or through a window, door or other aperture of any building, structure or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, such person shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-12)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-130.

**Sec. 38-45. Entering premises of another for purpose of damaging property or interfering with its use.**

It shall be unlawful for any person to enter the land, dwelling, outhouse or any other building of another for the purpose of damaging such property or any of its contents or in any manner to interfere with the rights of its owner, user or the occupant to use such property free from interference. Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-13)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-121.

**Sec. 38-46. Trespass at night upon any cemetery.**

If any person, without the consent of the owner, proprietor or custodian, goes or enters in the nighttime, upon the premises, property, driveways or walks of any cemetery, either public or private, for any purpose other than to visit the burial lot or grave of some member of his family, he shall be guilty of a class 4 misdemeanor.

(Code 1981, § 5-14)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-125.

**Sec. 38-47. Pulling down fences or leaving gates open.**

If any person shall, without permission of the owner, pull down the fence of another and leave the fence down or, without permission, open and leave open the gate of another, or any gate across a public road established by order of court, such person shall be guilty of a class 4 misdemeanor.

(Code 1981, § 5-15)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-143.

**Secs. 38-48--38-80. Reserved.**

**ARTICLE III. OFFENSES INVOLVING FRAUD**

**Sec. 38-81. Calling or summoning ambulance or firefighting apparatus without just cause; maliciously activating fire alarms in public buildings; venue.**

(a) Any person who without just cause calls or summons, by telephone or otherwise, any ambulance, or firefighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building used for public assembly or for other public use, including but not limited to schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas, regardless of whether fire apparatus responds or not, shall be deemed guilty of a class 1 misdemeanor.

(b) A violation of this section may be prosecuted if the call or summons was made from the town or if the call or summons was received in the town.

(Code 1981, § 5-16)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-212.

**Sec. 38-82. Unlawful operation of coin box telephone, parking meter, vending machine.**

Any person who shall operate, cause to be operated, or attempt to operate or cause to be operated any coin box telephone, parking meter, vending machine or other machine that operates on the coin-in-the-slot principle, whether of like kind or not, designed only to receive lawful coin of the United States of America, in connection with the use or enjoyment of telephone or telegraph service, parking privileges or any other service, or the sale of merchandise or other property, by means of a slug, or any false, counterfeit, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever, not authorized by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine, or who shall obtain or receive telephone or telegraph service, parking privileges, merchandise, or any other service or property from any such coin box telephone, parking meter, vending machine or other machines, designed only to receive lawful coin of the United States of America, without depositing in or surrendering to such coin box telephone, parking meter, vending machine or other machine lawful coin of the United States of America to the amount required by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine, shall be guilty of a class 3 misdemeanor.

(Code 1981, § 5-17)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-179.

**Sec. 38-83. Untrue, deceptive or misleading advertising.**

(a) Any person who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public for sale or distribution, or with intent to increase their consumption, or to induce the public in any manner to enter into any related obligation or to acquire title or any interest, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, blueprint, map, tag, bill, label, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding merchandise, securities, service, land, lot or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact that is untrue, deceptive or misleading, or uses any other method, device or

practice which is fraudulent, deceptive or misleading to induce the public to enter into any obligation, shall be guilty of a class 1 misdemeanor.

(b) The terms "untrue, deceptive and misleading," as used in this section, shall be construed as including:

- (1) The advertising in any manner by any person of any goods, wares or merchandise as bankrupt stock, receiver's stock or trustee's stock, or any sale as an insurance, fire-damaged, water-damaged or going-out-of-business sale, or any other sale generally known as a distress sale, if such stock contains any goods, wares or merchandise put in stock subsequent to the date of the purchase by such advertiser of such stock, and if such advertisement of any such stock fails to set forth the fact that such stock contains other goods, wares or merchandise put in stock, subsequent to the date of the purchase by such advertiser of such stock, in type as large as the type used in any other part of such advertisement, including the caption, it shall be a violation of this section; and
- (2) The use of any writing or document which appears to be but is not in fact a negotiable check, negotiable draft or other negotiable instrument, notwithstanding the fact that its nonnegotiability is indicated on the writing or document.

(Code 1981, § 5-18)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-216.

**Sec. 38-84. Defrauding restaurants.**

(a) It shall be unlawful for any person to obtain food from a restaurant or other eating house and, without having an express agreement for credit, to procure food or entertainment without paying for such food or entertainment and with intent to cheat or defraud the owner or keeper of such restaurant or eating house out of the pay for such food or entertainment.

(b) Any person who violates any provision of this section shall be guilty of a class 1 misdemeanor; however, this section shall apply only if the value of service, credit or benefit procured or obtained is less than \$200.00.

(Code 1981, § 5-19)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-188.

**Secs. 38-85--38-115. Reserved.**

**ARTICLE IV. OFFENSES INVOLVING HEALTH AND SAFETY\***

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\*Cross reference(s)--Environment, ch. 18; health and sanitation, ch. 30.  
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**Sec. 38-116. Failing to secure medical attention for injured child.**

Any parent or other person having custody of a minor child, which child shows evidence of need for medical attention as the result of physical injury inflicted by an act of any member of the household, whether the injury was intentional or unintentional, who knowingly fails or refuses to secure prompt and adequate medical attention, or who conspires to prevent the securing of such attention, for such minor child shall be guilty of a class 1 misdemeanor; provided, that any parent or other person having custody of a minor child that is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not for that reason alone be considered in violation of this section.

(Code 1981, § 5-20)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-314.

**Sec. 38-117. Expectorating in public places.**

(a) No person shall spit, expectorate or deposit any sputum, saliva, mucus or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assembles, or upon the floor of any part of any public conveyance, or upon any sidewalk abutting on any public street, alley or lane of the town.

(b) A violation of this section shall constitute a class 4 misdemeanor.

(Code 1981, § 5-21)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-322.

**Sec. 38-118. Inhaling drugs or other noxious chemical substances or causing others to do so.**

(a) It shall be unlawful, except under the direction of a practitioner as defined in Code of Virginia, § 54.1-3401, for any person deliberately to smell or inhale any drugs or any other noxious chemical substances, including but not limited to fingernail polish or model airplane glue, containing any ketones,

aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, with the intent to become intoxicated, inebriated, excited, stupefied or to dull the brain or nervous system. Any person violating the provisions of this subsection shall be guilty of a class 1 misdemeanor.

(b) It shall be unlawful for any person, other than one duly licensed, deliberately to cause, invite or induce any person to smell or inhale any drugs or any other noxious substances or chemicals containing any ketone, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors with the intent to intoxicate, inebriate, excite, stupefy or to dull the brain or nervous system of such person. Any person violating the provisions of this subsection shall be guilty of a class 2 misdemeanor.

(Code 1981, § 5-22)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-264.

**Sec. 38-119. Burning.**

(a) It shall be unlawful and a class 1 misdemeanor for any person to burn, cause to be burned or allow to be burned on any property in this town any rubber, rubber product, automobiles, trucks or their parts, or any other product, material or substance, the burning of which causes noxious or offensive odors, noxious or offensive fumes or noxious or offensive smoke.

(b) No person shall kindle or ignite, or cause to be kindled or ignited, or maintain any open fire in any public or private place outside any building except under the following circumstances:

- (1) Open fires may be set in performance of an official duty or by any public health or safety officer if the fire is necessary for one or more of the following reasons or purposes:
  - a. For the prevention of a fire hazard that can be abated by no other means;
  - b. For the instruction of public firefighters or industrial employees under the supervision of the fire marshal of the town; or
  - c. For the protection of public health.
- (2) Fires may be used for cooking of food, provided there is no smoke violation, and provided no other nuisance is created.

- (3) Salamanders or other devices may be used for heating by construction and other workers, provided there is no smoke violation, and provided no other nuisance is created.

Any violation of the provisions of this subsection shall constitute a class 3 misdemeanor.

(Code 1981, § 5-23)

**State law reference(s)**--Regulating or prohibiting the making of fires, Code of Virginia, § 15.2-1118.

**Sec. 38-120. Abandoned or discarded refrigerators or other airtight containers.**

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space that is airtight without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment that is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment.

(c) Any violation of the provisions of this section shall constitute a class 3 misdemeanor.

(Code 1981, § 5-24)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-319.

**Sec. 38-121. Duty of persons causing well or pit to be dug to fill it before abandonment.**

(a) Any person who has caused to be dug on his own land or the land of another any well or pit shall fill such well or pit with earth so that the well or pit shall not be dangerous to human beings, animals or fowls before such well or such pit is abandoned; and any person owning land whereon any such well or pit is located shall in the same manner fill with earth any such well or pit that has been abandoned, provided such person has knowledge of the existence of such well or pit.

(b) In the case of mining operations in lieu of filling the shaft or pit the owner or operator on ceasing operations in such

shaft or pit shall securely fence the shaft or pit and keep the shaft or pit at all times thereafter securely fenced.

(c) Any person violating any provision of this section shall be deemed guilty of a class 3 misdemeanor.

(Code 1981, § 5-25)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-316.

**Sec. 38-122. Unsanitary conditions prohibited.**

It shall be unlawful for any person to permit any noxious, unsanitary or offensive matter, stagnant water or other substance that is or might be injurious to the public health to be or remain on such person's property or in such person's possession or control. A violation of this section shall be a class 1 misdemeanor.

(Code 1981, § 5-26)

**Sec. 38-123. Throwing or depositing certain substances upon highway; removal of such substances.**

(a) No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can or any other substance likely to injure any person or animal, or damage any vehicle upon such highway; nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.

(b) This section shall not apply to the use, by a law enforcement officer while in the discharge of official duties, of any device designed to deflate tires.

(Code 1981, § 5-27)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-324.

**Sec. 38-124. Willfully discharging firearms in public places.**

If any person willfully discharges or causes to be discharged any firearm in any street in the town, or in any place

of public business or place of public gathering, such person shall be guilty of a class 1 misdemeanor. This section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose willful act is otherwise justifiable or excusable at law in the protection of life or property or is otherwise specifically authorized by law.

(Code 1981, § 5-28)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-280.

**Sec. 38-125. Personal protection; carrying concealed weapons; when lawful to carry.**

(a) If any person carries about his person, hidden from common observation, any:

- (1) Pistol, revolver, or other weapon designed or intended to propel a missile of any kind;
- (2) Dirk, Bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, or blackjack;
- (3) Flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain;
- (4) Disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or
- (5) Weapon of like kind as those enumerated in this subsection;

he shall be guilty of a class 1 misdemeanor for a first violation. Any weapon used in the commission of a violation of this section shall be forfeited to the commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the division of forensic science shall be devoted to that purpose, subject to any registration requirements of federal law; and the remainder shall be disposed of as provided in Code of Virginia, § 18.2-310. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

(b) This section shall not apply to:

- (1) Any person while in his own place of abode or its curtilage;
- (2) Any police officers, including Capitol Police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Code of Virginia, § 29.1-200 et seq.;
- (3) Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
- (4) Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;
- (5) Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;
- (6) Campus police officers appointed pursuant to Code of Virginia, § 23-232 et seq.;
- (7) Any person actually engaged in lawful hunting, as authorized by the board of game and inland fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions; and
- (8) Any state police officer retired from the department of state police and any local law enforcement officer retired from a police department or sheriff's office within the commonwealth with a service-related disability or following at least 15 years of service, other than a person terminated for cause, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed weapon issued by the chief law enforcement officer of the agency from which the officer retired.

(c) This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

- (1) Carriers of the United States mail;
- (2) Officers or guards of any state correctional institution;

- (3) Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed weapon without obtaining a permit as provided in subsection (d) of this section:
  - a. Notaries public;
  - b. Registrars;
  - c. Drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire;  
or
  - d. Commissioners in chancery;
- (4) Noncustodial employees of the department of corrections designated to carry weapons by the director of the department of corrections pursuant to Code of Virginia, § 53.1-29;
- (5) Law enforcement agents of the armed forces of the United States and federal agents who are otherwise authorized to carry weapons by federal law while engaged in the performance of their duties;
- (6) Law enforcement agents of the United States Naval Criminal Investigative Service; and
- (7) Harbormaster of the city.

(d) Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides for a five-year permit to carry a concealed handgun.

(e) For the purposes of this section:

*Ballistic knife* means any knife with a detachable blade that is propelled by a spring-operated mechanism.

*Handgun* means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion from one or more barrels when held in one hand.

*Spring stick* means a spring-loaded metal stick activated by pushing a button that rapidly and forcefully telescopes the weapon to several times its original length.

(Code 1981, § 5-29)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-308.

**Secs. 38-126--38-155. Reserved.**

**ARTICLE V. OFFENSES INVOLVING MORALS AND DECENCY**

**Sec. 38-156. Causing or encouraging acts rendering children delinquent, abused; penalty.**

(a) Any person 18 years of age or older, including the parent of any child, who:

- (1) Willfully contributes to, encourages, or causes any act, omission or condition that renders a child delinquent, in need of services, in need of supervision, or abused or neglected; or
- (2) Engages in consensual sexual intercourse with a child 15 or older not his spouse, child, or grandchild;

shall be guilty of a class 1 misdemeanor.

(b) When used in this section, unless the context otherwise requires:

*Abused or neglected child* means any child:

- (1) Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;
- (2) Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;
- (3) Whose parents or other person responsible for his care abandons such child;
- (4) Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or
- (5) Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

*Adult* means a person 18 years of age or older.

*Child in need of services* means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone. However, to find that a child falls within these provisions, the conduct complained of must present a clear and substantial danger to the child's life or health; or the child or his family is in need of treatment, rehabilitation or services not presently being received, and the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

*Child in need of supervision* means:

- (1) A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and that meet the child's particular educational needs, and the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success; or
- (2) A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and such conduct presents a clear and substantial danger to the child's life or health; the child or his family is in need of treatment, rehabilitation or services not presently being received; and the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

*Child, juvenile or minor* means a person less than 18 years of age.

(Code 1981, § 5-30)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-371.

**Sec. 38-157. Profane swearing and intoxication in public; penalty.**

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

(Code 1981, § 5-31)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-388.

**Sec. 38-158. Use of profane, threatening or indecent language over public airways.**

If any person shall use obscene, vulgar, profane, lewd, lascivious or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act with the intent to coerce, intimidate or harass any person, over any telephone or citizens band radio in the town, such person shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-32)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-427.

**Sec. 38-159. Bawdy places.**

(a) It shall be unlawful and a class 1 misdemeanor for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any bawdy place.

(b) For the purposes of this section, "bawdy place" shall mean any place, within or without any building or structure, within this town that is used or is to be used for lewdness, assignation or prostitution. The term shall include but shall not be limited to every house of prostitution, house of ill fame, house of assignation and brothel.

(c) In a prosecution for a violation of this section, the general reputation of the place may be proved.

(Code 1981, § 5-33)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-347.

**Sec. 38-160. Obscene defined; obscene items enumerated; production, publication, sale, possession of obscene items.**

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

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-372.

(b) Obscene items shall include:

- (1) Any obscene book;
- (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture, videotape recording; or
- (3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds.

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-373.

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

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

For the purposes of this subsection, "distribute" means delivery in person, by mail, messenger or by any other means by which obscene items may pass from one person to another.

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-374.

(d) It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing or picture that is obscene, or that advertises or promotes any obscene item proscribed in subsection (b) of this section or any obscene exhibition or performance, or knowingly to permit any of these items to be displayed on property belonging to or controlled by him.

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-377.

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

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-379.

(f) Any person convicted for the first time of an offense under this section shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-34(A)--(F))

**Cross reference(s)**--Definitions generally, § 1-2.

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-380.

#### **Sec. 38-161. Indecent exposure.**

Every person who intentionally makes an obscene display or exposure of his person, or his private parts in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(Code 1981, § 5-35)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-387.

#### **Secs. 38-162--38-190. Reserved.**

### **ARTICLE VI. OFFENSES AGAINST PEACE AND ORDER**

DIVISION 1. GENERALLY

**Sec. 38-191. Disorderly conduct in public places.**

(a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) In any street, highway, public building, or while in or on a public conveyance or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed;
- (2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any meeting of the town council or a division or agency of the town, or of any school, literary society or place of religious worship, if the disruption prevents or interferes with the orderly conduct of the meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or
- (3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption prevents or interferes with the orderly conduct of the operation or activity or has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

(b) However, the conduct prohibited under subsection (a)(1), (2) or (3) of this section shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this article.

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

(d) A person violating any provision of this section shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-37)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-415.

**Sec. 38-192. Abusive language.**

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

(Code 1981, § 5-38)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-416.

**Sec. 38-193. Obstructing free passage of others.**

Any person who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such place or property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law enforcement officer shall be guilty of a class 1 misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing.

(Code 1981, § 5-39)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-404.

**Sec. 38-194. Curfew for minors.**

It shall be unlawful and a class 4 misdemeanor for any person under the age of 18 years, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, to loiter, loaf, idle, stand around, play in, tarry upon or wander on foot, or to park, idle, wander, tarry or play in or on a vehicle, upon or around any public place or highway or any place open to the public, whether or not on private property, in the town, unless engaged in a lawful business, education or religious activity or unless performing a necessary errand or any other lawful activity for which a good account may be given. No person shall be arrested for or charged with a violation of this section, unless the arresting officer has first warned the offender of such violation and the offender has thereafter failed or refused to move on to a lawful destination.

(Code 1981, § 5-40)

**Sec. 38-195. Resisting or obstructing execution of legal process.**

Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-41)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-409.

**Secs. 38-196--38-215. Reserved.**

DIVISION 2. RIOTS AND UNLAWFUL ASSEMBLIES

**Sec. 38-216. What constitutes.**

(a) Any unlawful use, by three or more persons acting together, of force or violence that seriously jeopardizes the public safety, peace or order is a riot.

(b) Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly.

(Code 1981, § 5-36.1)

**State law reference(s)**--Similar provisions, Code of Virginia, §§ 18.2-405, 18.2-406.

**Sec. 38-217. Participation in.**

Every person who participates in any riot or unlawful assembly shall be guilty of a class 1 misdemeanor.

(Code 1981, § 5-36.2)

**State law reference(s)**--Similar provisions, Code of Virginia, §§ 18.2-405, 18.2-406.

**Sec. 38-218. Remaining at scene after warning to disperse.**

Every person, except the owner or lessee of the premises, such person's family and nonrioting guests, and public officers and persons assisting them, who remains at the place of any riot or unlawful assembly, after having been lawfully warned to disperse, shall be guilty of a class 3 misdemeanor.

(Code 1981, § 5-36.3)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-407.

**Sec. 38-219. Dispersal.**

(a) When any number of persons, whether armed or not, are unlawfully or riotously assembled, the police officials shall go among the persons assembled, or as near to them as safety will permit, and command them, in the name of the commonwealth, to immediately disperse. If upon such command the persons unlawfully assembled do not disperse immediately, the police officials may use such force as is reasonably necessary to disperse them and to arrest those who fail or refuse to disperse. To accomplish this end, the police officials may request and use the assistance and services of private citizens.

(b) Every endeavor shall be used by the police officials, which can be made consistently with the preservation of life, to induce or force persons unlawfully assembled to disperse before an attack is made upon those unlawfully assembled by which their lives may be endangered.

(c) No liability, criminal or civil, shall be imposed upon any person authorized to disperse or assist in dispersing a riot or unlawful assembly for any action of such person that was taken after those rioting or unlawfully assembled had been commanded to disperse, and which action was reasonably necessary, under all the circumstances, to disperse such riot or unlawful assembly or to arrest those who failed or refused to disperse.  
(Code 1981, § 5-36.4)

**State law reference(s)**--Similar provisions, Code of Virginia, §§ 18.2-411, 18.2-412.

**Secs. 38-220--38-250. Reserved.**

**ARTICLE VII. OFFENSES AGAINST THE ADMINISTRATION OF JUSTICE\***

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**\*Cross reference(s)**--Administration, ch. 2.

**Sec. 38-251. Obstructing justice.**

(a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the commonwealth, witness or any law enforcement officer in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the commonwealth,

witness, or law enforcement officer, he shall be guilty of a class 2 misdemeanor.

(b) If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the commonwealth, witness, or any law enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed to be guilty of a class 1 misdemeanor.

(Code 1981, § 5-42)

**State law reference(s)**--Similar provisions, Code of Virginia, § 18.2-460.

**Sec. 38-252. Falsely summoning or giving false reports to law enforcement officials.**

It shall be unlawful for any person to knowingly give a false report as to the commission of any crime to any law enforcement official with intent to mislead, or without just cause and with intent to interfere with the operations of any law enforcement official, to call or summon any law enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm. Violation of the provisions of this section shall be punishable as a class 1 misdemeanor.

(Code 1981, § 5-43)