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~~Article 4.~~

~~Limited Access Highways.~~

CHAPTER 4.

LIMITED ACCESS HIGHWAYS; SCENIC HIGHWAYS AND VIRGINIA BYWAYS;
HIGHWAYS OVER DAMS.

Drafting note: Placed together in this proposed chapter in Subtitle II are existing articles Limited Access Highways, Article 4 of Chapter 1; Scenic Highways and Virginia Byways, Article 5 of Chapter 1; and Highways over Dams, Article 14 of Chapter 1.

~~§ 33.1-57 33.2-400.~~ "Limited access highway" defined Definitions.

~~A limited-~~ As used in this chapter, unless the context requires a different meaning:

"Limited access highway ~~is defined as~~ " means a highway especially designed for through traffic, over which abutters have no easement or right of light, air, or access ~~to~~ by reason of the fact that their property abuts upon such limited access highway.

"Scenic highway" means a highway, designated as such by the Board, within a protected scenic corridor located, designed, and constructed so as to preserve and enhance the natural beauty and cultural value of the countryside.

"Virginia byway" means a highway, designated as such by the Board, having relatively high aesthetic or cultural value, leading to or within areas of historical, natural, or recreational significance.

Drafting note: Definitions in combined existing Articles 4, 5, and 14 of Chapter 1 are relocated to a new definitions section at the beginning of this proposed chapter, applicable throughout the chapter. Technical changes are made.

~~§ 33.1-58 33.2-401.~~ Power and authority of Commonwealth Transportation Board relating to limited access highways.

The ~~Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the use of limited access highways; in the same manner in which it is now or may be authorized to plan, designate,

28 | acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the
29 | use of other highways within ~~this~~ the Commonwealth. The Board shall also have any and all
30 | other additional authority and power relative to other highways, which shall include the right to
31 | acquire by purchase, eminent domain, grant, or dedication title to such lands or rights-of-way
32 | for such limited access highways.

33 | Notwithstanding any other provisions of this Code, any highway, street, or portion
34 | thereof, to which access rights of abutters have been acquired by the ~~Commonwealth~~
35 | ~~Transportation~~ Board and which is subsequently incorporated into the street system of a city or
36 | town by any method, shall remain limited access until and unless the governing body of the city
37 | or town, after securing the approval of the ~~Commonwealth Transportation~~ Board, acts to
38 | discontinue such limited access feature.

39 | **Drafting note: Technical changes are made.**

40 | § ~~33.1-59~~ 33.2-402. Designating existing highway as limited access highway;
41 | extinguishing easements of access.

42 | The Board may designate all or any part of an existing highway as a limited access
43 | highway. When an existing highway is so designated, the Board shall, where necessary,
44 | extinguish all existing easements of access, light, or air.

45 | **Drafting note: Technical changes are made.**

46 | § ~~33.1-60~~ 33.2-403. Business enterprises restricted on limited access highway right-of-
47 | way.

48 | No commercial establishment or business enterprise shall be constructed or located upon
49 | any right-of-way of any limited access highway.

50 | **Drafting note: Technical changes are made.**

51 | § ~~33.1-61~~ 33.2-404. ~~Parallel service~~ Service roads parallel to limited access highways;
52 | standards for access, service, etc., ~~roads~~.

53 | The Department may construct service roads parallel to a limited access highway in
54 | order to provide access at designated points for property owners abutting on the limited access

55 highway and after the construction of such service roads shall maintain and regulate traffic over
56 them.

57 The construction or alteration of any access, feeder, or service road ~~which that~~ is to serve
58 properties isolated by construction of a limited access highway shall meet all minimum state
59 standards or the standards of the cities or towns with a population of more than 3,500
60 ~~population~~, or of counties ~~which that~~ maintain their own road networks, as provided for by
61 ordinance, whichever is more strict.

62 **Drafting note: Existing § 33.1-61 was amended by Chapters 585 and 646 of the 2013**
63 **Acts of Assembly and those changes are reflected in the existing language here. Technical**
64 **changes are made.**

65 ~~Article 5-~~

66 ~~Scenic Highways and Virginia Byways-~~

67 **Drafting note: Existing Article 5 of Chapter 1 is combined with existing Articles 4**
68 **and 14 of Chapter 1 and placed in this proposed Chapter 4.**

69 § ~~33.1-62~~ 33.2-405. Designation of scenic highways and Virginia byways.

70 The ~~Commonwealth Transportation~~ Board is ~~hereby~~ authorized to designate any
71 highway as a scenic highway or as a Virginia byway. This designation shall be made in
72 cooperation with the Director of the Department of Conservation and Recreation. Prior to
73 designation, the local governing body and local planning commission, if any, in each county or
74 city wherein the proposed scenic highway or Virginia byway is located shall be given notice
75 and, upon request by any of the local governing bodies, the ~~Commonwealth Transportation~~
76 Board shall hold a hearing in one of the counties or cities wherein the proposed scenic highway
77 or Virginia byway is located.

78 **Drafting note: Technical changes are made.**

79 § ~~33.1-63~~ 33.2-406. ~~"Virginia byway" defined; preference in selecting~~ Selecting Virginia
80 byways.

81 ~~For the purposes of this article, a "Virginia byway" is defined as a road, designated as~~
82 ~~such by the Commonwealth Transportation Board, having relatively high aesthetic or cultural~~
83 ~~value, leading to or within areas of historical, natural, or recreational significance.~~ In selecting a
84 Virginia byway, the ~~Commonwealth Transportation~~ Board and the Director of the Department
85 of Conservation and Recreation shall give preference to corridors controlled by zoning or
86 otherwise, so as to reasonably protect the aesthetic or cultural value of the highway.

87 **Drafting note: The definition of "Virginia byway" is relocated to a new definitions**
88 **section at the beginning of this proposed chapter. Technical changes are made.**

89 ~~§ 33.1-64. "Scenic highway" defined.~~

90 ~~For the purpose of this article, a "scenic highway" is defined as a road designated as such~~
91 ~~by the Commonwealth Transportation Board, within a protected scenic corridor located,~~
92 ~~designed, and constructed so as to preserve and enhance the natural beauty and cultural value of~~
93 ~~the countryside.~~

94 **Drafting note: Repeal; the definition of "scenic highway" is relocated to a new**
95 **definitions section at the beginning of this proposed chapter.**

96 ~~§ 33.1-65~~ 33.2-407. Signs Signage of scenic highways and Virginia byways.

97 When the ~~Commonwealth Transportation~~ Board designates a highway as a scenic
98 highway or as a Virginia byway, it shall be appropriately signed as such.

99 **Drafting note: Technical changes are made.**

100 ~~§ 33.1-66~~ 33.2-408. Acquisition of adjacent land.

101 When the ~~Commonwealth Transportation~~ Board has designated a highway as a Virginia
102 byway or as a scenic highway, the Commissioner of Highways may acquire by gift or purchase
103 such land, or interests therein, of primary importance for the preservation of natural beauty
104 adjacent to Virginia byways or scenic highways.

105 **Drafting note: Technical changes are made.**

106 ~~Article 14.~~

107 ~~Roads Over Dams.~~

108 **Drafting note: Existing Article 14 of Chapter 1 is combined with existing Articles 4**
109 **and 5 of Chapter 1 and placed in this proposed Chapter 4.**

110 § ~~33.1-176~~ 33.2-409. Duty of owner or occupier of dam over which state highway
111 passes; penalty.

112 Every owner or occupier of a dam over which a state highway passes shall, ~~so far as any~~
113 ~~state highway passes over the same,~~ keep such dam in good order, at least ~~twelve~~ 12 feet wide at
114 the top, and also keep in good order the substructure of a bridge of like width over the pier
115 heads, floodgates, or any wastecut through or around the dam; provided, ~~however,~~ that when
116 ~~the above has these requirements have~~ been ~~done met~~, the superstructure of any such bridge
117 shall be maintained by the Commissioner of Highways. The Commissioner of Highways shall
118 inspect all such bridges and report any needed repairs to the owner in writing ~~needed repairs~~. If
119 such owner fails to comply with the provisions of this ~~article chapter~~, he ~~shall be deemed is~~
120 guilty of a misdemeanor ~~and, upon conviction thereof, shall be fined two dollars punishable by a~~
121 fine of \$2 for every such failure of ~~twenty-four~~ 24 hours. ~~But However,~~ if a milldam is carried
122 away or destroyed by flood or any other extraordinary natural cause, the owner or occupier
123 thereof shall not be subject to such fine until one month after any mill, operated in whole or in
124 part by water impounded by such dam, has been put into operation by such waterpower.

125 **Drafting note: No section in existing Article 14 has been amended since this title**
126 **was last revised in 1970; at that time, no section in the article had been amended since the**
127 **Code of 1950. Technical changes and modernization of language are made.**

128 § ~~33.1-177~~ 33.2-410. Duties of Commissioner of Highways related to dams over which a
129 state highway passes.

130 The Commissioner of Highways may, at his own cost and expense, widen or strengthen
131 any ~~such~~ dam or bridge over which a state highway passes to a sufficient width ~~sufficient~~
132 ~~properly~~ to provide properly for ~~the~~ traffic ~~which that~~ uses that section of ~~road~~ highway of
133 which such dam or bridge forms a part. The Commissioner of Highways shall maintain the ~~road~~
134 highway surface on such sections of ~~road~~ highway.

135 **Drafting note: No section in existing Article 14 has been amended since this title**
136 **was last revised in 1970; at that time, no section in the article had been amended since the**
137 **Code of 1950. Technical changes and modernization of language are made.**

138 | § ~~33.1-178~~ 33.2-411. Raising or lowering floodgates.

139 | The owner or occupier of a dam shall raise or lower the floodgates on such dam when
140 | there is an impending flood in order to reduce the level of the water in the pond, and when it
141 | comes to the attention of the Commissioner of Highways, ~~or his authorized agent~~, that this has
142 | not been done, or that the owner is unable to reach the spillway in order to do so, the
143 | Commissioner, ~~or his authorized agent~~, of Highways may perform this duty.

144 **Drafting note: No section in existing Article 14 has been amended since this title**
145 **was last revised in 1970; at that time, no section in the article had been amended since the**
146 **Code of 1950. References to "his authorized agent" are not necessary because the**
147 **Commissioner of Highways is authorized to delegate his authority as chief executive**
148 **officer; see proposed § 33.2-201. Technical changes are made.**

149 | § ~~33.1-179~~ 33.2-412. Reconstruction if dam is washed out.

150 | ~~In case such~~ If a dam is washed out and the owner refuses to replace the ~~same dam~~, the
151 | Commissioner of Highways, with or without the consent of such owner or occupier, may
152 | construct a highway across the ~~same; dam~~, but in case the owner desires to replace the dam and
153 | use the pond, he shall be permitted to do so by paying to the Commissioner ~~one half of~~
154 | Highways one-half of the cost and expenses of replacing the dam, up to a width of ~~twelve~~ 12
155 | feet at the top, and the difference between the cost, if any, of replacing the bridge normally
156 | required to carry the water of the stream and the cost of a bridge ~~which that~~ includes floodgates
157 | and adequate spillway.

158 **Drafting note: No section in existing Article 14 has been amended since this title**
159 **was last revised in 1970; at that time, no section in the article had been amended since the**
160 **Code of 1950. Technical changes are made.**

161 | § ~~33.1-180~~ 33.2-413. When larger spillway required.

162 In case the earthen portion of a dam has been washed away and it is determined by the
163 Commissioner of Highways that the washout was caused by a spillway of insufficient opening
164 to carry floodwater, the dam shall not be restored for the purpose of impounding water unless
165 the owner or occupier agrees with the Commissioner ~~for~~ of Highways to the construction of a
166 spillway with adequate opening, conforming to plans and specifications of the Department ~~of~~
167 Transportation. In the event that such construction is required, the Commissioner of Highways
168 shall be responsible for such part of the cost as would be necessary to provide a bridge with
169 sufficient opening to carry the floodwater of the stream, and the owner or occupier of the dam
170 shall be required to pay the difference in cost, if any, of providing adequate floodgates and
171 spillways in addition to the bridge.

172 **Drafting note: No section in existing Article 14 has been amended since this title**
173 **was last revised in 1970; at that time, no section in the article had been amended since the**
174 **Code of 1950. Technical changes are made.**

175 § ~~33.1-181~~ 33.2-414. ~~Article applicable~~ Application to county roads.

176 ~~The foregoing sections of this article Sections 33.1-176 through 33.1-180 (Sections 33.2-~~
177 ~~XXX through 33.2-XXX)~~ shall also apply to dams, ~~and to the owners and occupiers thereof~~ over
178 which pass public roads ~~which that~~ are not in the ~~State Highway System primary~~ or secondary
179 ~~state highway~~ system ~~of state highways, and to the owners and occupiers thereof~~. As to any such
180 dam and the owner or occupier thereof, the powers ~~hereinabove in this article~~ conferred and
181 imposed upon the Commissioner of Highways in §§ 33.2-XXX through 33.2-XXX shall be
182 vested in and imposed upon the ~~board of supervisors or other~~ governing body of the county in
183 which such dam is located.

184 **Drafting note: No section in existing Article 14 has been amended since this title**
185 **was last revised in 1970; at that time, no section in the article had been amended since the**
186 **Code of 1950. Technical changes are made.**