



# COMMONWEALTH of VIRGINIA

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June 14, 2013

The Honorable Joe T. May  
Member, House of Delegates  
Post Office Box 2146  
Leesburg, Virginia 20177-7538

Dear Delegate May:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

## Issue Presented

You inquire whether law enforcement officers may enforce stop signs posted by the Northern Virginia Regional Park Authority ("NVRPA") on trails located within the Washington and Old Dominion Regional Park ("W&OD Trail").

## Response

It is my opinion that law enforcement officers may enforce against trail users stop signs installed on the W&OD Trail if such signs represent a rule or regulation of the NVRPA.

## Background

You relate that the NVRPA seeks to establish uniform guidelines for the control of cycling traffic through the eight jurisdictions along the W&OD Trail. The W&OD Trail consists of a 10 foot wide, 45 mile long paved trail for walking, running, cycling, and skating, and 30 miles of a parallel gravel trail for horseback riding. The W&OD Trail passes through four towns, three counties, and one city. Trail users encounter potential collision with automobiles or other vehicles at the 70 road grade crossings.

## Applicable Law and Discussion

The Northern Virginia Regional Park Authority is established as an authority under the Virginia Park Authorities Act.<sup>1</sup> Each authority established under the Virginia Park Authorities Act is

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<sup>1</sup> VA. CODE ANN. §§ 15.2-5700 through 15.2-5714 (2012).

authorized and empowered . . . [t]o adopt such rules and regulations from time to time, not in conflict with the laws of this Commonwealth, concerning the use of properties under its control as will tend to the protection of such property and the public thereon. No such rule or regulation shall be adopted until after descriptive notice of an intention to propose such rule or regulation for passage has been published in accordance with the procedures required for the adoption of general county ordinances and emergency county ordinances as set forth in § 15.2-1427, mutatis mutandis. The full text of any proposed rule or regulation shall be available for public inspection and copying during regular office hours of the authority at a place designated in the published notice.<sup>[2]</sup>

Thus, the NVRPA clearly is authorized to adopt rules and regulations, including traffic provisions, in furtherance of protecting persons using any property within its control.

The violation of any such rule or regulation adopted by the NVRPA is deemed by law to be a Class 4 misdemeanor.<sup>3</sup> Thus, “the General Assembly has declared the violation of a park authority’s rules and regulations to be a misdemeanor, which is a crime, an offense against the state.”<sup>4</sup> It is the duty of sheriffs and local police officers to enforce state laws.<sup>5</sup> Consequently, no further legal justification is required to allow local police, sheriffs, or sheriff’s deputies to enforce park rules or regulations requiring trail users to stop prior to entering a highway.<sup>6</sup>

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<sup>2</sup> Section 15.2-5704(17) (2012).

<sup>3</sup> Section 15.2-5705 (2012).

<sup>4</sup> 1985-86 Op. Va. Att’y Gen. 255, 255 (responding to the Loudoun County Sheriff that sheriffs indeed have a duty to enforce the rules and regulations adopted by regional park authorities located in Loudoun County while noting that the sheriff retains exclusive control over the assignment of personnel and the day-to-day operations of his office).

<sup>5</sup> See §§ 15.2-1609 (2012), 15.2-1704(A) (2012).

<sup>6</sup> The enforceability of stop signs along the trail was addressed in part with recently enacted legislation that enables localities to adopt ordinances requiring users of shared-use paths to stop before crossing highways at marked crosswalks subject to fine not to exceed \$100. 2013 Va. Acts chs. 507, 681. In its correspondence with you, the NVRPA argues the W&OD Trail might be considered a “highway” and, as such, signs governing traffic on the trail posted by NVRPA would be eligible for traffic enforcement from local sheriff and police departments. Because of the conclusion reached herein, it is unnecessary to address this alternative argument. In addition, this opinion declines to determine the sufficiency of current signage.

I further note that “highway” is generally defined as

the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated “highways” by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

### Conclusion

Accordingly, it is my opinion that law enforcement officers may enforce against trailer users stop signs installed on the W&OD Trail if such signs represent a rule or regulation adopted by NVRPA under the Virginia Park Authorities Act.<sup>7</sup>

With kindest regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "Ken C II". The signature is stylized with a large "K" and "C", and the Roman numeral "II" is written to the right of the "C".

Kenneth T. Cuccinelli, II  
Attorney General

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<sup>7</sup> This Opinion makes no assumption as to whether such a properly adopted rule or regulation already exists. Rather, this Opinion makes note that NVRPA is vested with the authority to enact such a rule or regulation. *See* § 15.2-5704(17).