

§ 10.1-2305. Permit required for the archaeological excavation of human remains

A. It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age of an archaeological site and regardless of ownership without first receiving a permit from the Director.

B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and 57-39. However, such exemption shall not apply in the case of human burials within formally chartered cemeteries that have been abandoned.

C. The Department shall be considered an interested party in court proceedings considering the abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from the Director is required if archaeological investigations are undertaken as a part of a court-approved removal of a cemetery.

D. The Board shall promulgate regulations implementing this section that provide for appropriate public notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific quality of the research conducted on the remains, and the appropriate disposition of the remains upon completion of the research. The Department may carry out such excavations and research without a permit, provided that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.

E. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court. Such appeal must be filed within fourteen days of the Director's decision.

1989, c. 656.

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

Virginia Administrative Code

Chapter 20. Regulations Governing Permits for the Archaeological Removal of Human Remains

17VAC5-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Archaeological site" means a geographic area on dry land that contains any evidence of human activity which is or may be the source of important historic, scientific, archaeological or educational data or objects, regardless of age. Dry land includes land which is saturated or under water on a temporary basis.

"Associated artifacts" means natural objects or objects of human manufacture worn by or buried with human remains at the time of burial.

"Board" means the Virginia Board of Historic Resources.

"Curation" means the care and maintenance of artifacts or human remains, or both, from the time they are removed from the ground during any period of analysis and study, and as a possible option for long-term disposition of excavated materials.

"Department" means the Virginia Department of Historic Resources.

"Director" means the Director of the Department of Historic Resources.

"Emergency" means a situation in which human burials that have or may have scientific or historic significance are threatened with immediate and unavoidable destruction, or in which there likely will be a loss of scientific data because of the disturbance or destruction of human burials. Emergency situations exist where failure to initiate a scientific investigation immediately would result in irreversible loss of significant information. An emergency may exist regardless of whether the human remains are encountered unexpectedly, or may reasonably be anticipated, or suspected. Such situations include but are not limited to (i) construction projects where avoidance or delays are not possible or would constitute major hardships; (ii) sites where natural processes such as floods or erosion threaten destruction; and (iii) sites where looting is occurring, or is expected to occur within a short period of time.

"Field investigation" means the study of the traces of human culture at any site by means of surveying, sampling, excavation, or removing surface or subsurface material, or going on a site with that intent.

"Human remains" means a human body or any part of a body, particularly skeletal remains, at any stage of deterioration.

"Person" means any natural individual, partnership, association, corporation, or other legal entity.

"Unmarked burial" means grave or location where human remains were intentionally buried but which lacks any marker identifying the person or persons buried there. This may include primary or secondary burials. Any such burial shall constitute evidence of human activity as stated under the above definition of "archaeological site."

Statutory Authority

§§ [10.1-2202](#) and [10.1-2300](#) et seq. of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 1, eff. August 14, 1991.

17VAC5-20-20. Applicability.

This chapter shall apply to any person who conducts any field investigation involving the removal of human remains or associated artifacts from any unmarked burial on an archaeological site; no change in the burial laws of the Commonwealth is intended. This chapter also applies if archaeological investigations are undertaken as part of a court-approved removal of a cemetery.

Statutory Authority

§§ [10.1-2202](#) and [10.1-2300](#) et seq. of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 2, eff. August 14, 1991.

17VAC5-20-30. General provisions.

Any person conducting any field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall first obtain a permit from the director.

1. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be conducted without a permit.
2. In cases where a field investigation may reasonably be anticipated to involve the excavation and removal of human remains or associated artifacts, the person conducting such investigation may obtain a permit prior to the actual discovery of human burials.
3. In any case where human remains are encountered in a field investigation without having received a permit, all work on the burial or burials shall cease until a permit has been obtained.
4. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be performed except under the supervision and control of an archaeologist meeting the qualifications stated in [17VAC5-20-40](#).
5. Any human remains removed in the course of field investigations shall be examined by a skeletal biologist or other specialist meeting the qualifications stated in [17VAC5-20-40](#).
6. Any approved field investigation shall include an interim progress report summarizing the field portion of the permitted investigation within 60 days of completion of the removal of all human remains and associated artifacts. Reports indicating progress on analysis and report preparation shall be submitted to the department at 90-day intervals until the final report and disposition are accomplished.
7. The applicant shall make the site and laboratory available to the department for purposes of monitoring progress and compliance with this chapter as requested by the department.
8. A copy of the final report including the analysis of materials removed from the burial shall be delivered to the director according to the timetable described in the application.

9. Documentation of final disposition as required by the permit shall be delivered to the department within 15 days of such disposition.
10. Work conducted under a permit will not be considered complete until all reports and documentation have been submitted to and reviewed by the department to meet all conditions cited in this chapter or specified as part of an approved permit.
11. Failure to complete the conditions of the permit within the permitted time limit may result in revocation of the permit and constitute grounds for denial of future applications.
12. The applicant may apply for an extension or change to the conditions of the permit, including changes in research design, principal personnel or disposition, for good cause. Granting such an extension or alteration will be at the discretion of the director, after consultation with interested parties.

Statutory Authority

§§ [10.1-2205](#) and [10.1-2305](#) of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 3, eff. August 14, 1991; amended, Virginia Register [Volume 32, Issue 25](#), eff. September 8, 2016; Errata, 33:2 VA.R. 298 September 19, 2016.

17VAC5-20-40. Permit application.

A. Application for a permit shall be in such form as required by the director, but shall include the following basic information:

1. Name, address, email address, phone number, and institutional affiliation of the applicant.
2. Location and description of the archaeological site for which field investigation is proposed, including site number if assigned.
3. Proof of ownership of the archaeological site or the property on which the field investigation is to be conducted.
4. A written statement of the landowner's permission both to conduct such research and to remove human remains on the landowner's property, and allowing the director or the director's designee access to the field investigation site at any reasonable time for the duration of the permit. The landowner's signature to the written statement shall be notarized.
5. Applicant shall provide a signed statement confirming that adequate resources (financial and otherwise) are available to carry out the approved research design including respectful reburial in an appropriate location.
6. Applicant shall indicate whether or not this permit is being requested as part of a federal, state, or local government undertaking and, if so, shall provide a brief description of the undertaking.

B. A statement of goals and objectives of the project and proposed research design shall be provided as part of the permit application. The research design shall, at a minimum, address the following:

1. How the research design adheres to professionally accepted methods, standards, and processes used to obtain, evaluate, and analyze data on mortuary practices in particular and cultural practices in general.
2. Field documentation which shall include, but not be limited to (i) photographs, (ii) maps, (iii) drawings, and (iv) written records. Collected information shall include, but not be limited to (i) considerations of containment

devices, (ii) burial shaft or entombment configuration, (iii) burial placement processes, (iv) skeletal positioning and orientation, (v) evidence of ceremonialism or religious practices, and (vi) grave items or artifacts analyses.

To the extent possible, the cultural information shall be examined at the regional level with appropriate archival research. The results of the evaluation, along with the osteological analysis, will be submitted in report form to the director for review, comment, and final acceptance.

3. The planned osteological examination of the human skeletons which shall include determinations of age, sex, racial affiliation, dental structure, and bone inventories for each individual in order to facilitate comparative studies of bone and dental disease. Said inventories shall provide to the extent possible a precise count of all skeletal elements observed, as well as the degree of preservation (complete or partial); separate tabulation of the proximal and distal joint surfaces for the major long bones should be recorded.

The research design should also address at a minimum the following additional analytical techniques and when they will be used: under what circumstances will bone be examined and x-rayed if necessary, to detect lesions or conditions resulting from disease, malnutrition, trauma, or congenital defects; the presence of dental pathological conditions including carious lesions, premortem tooth loss, and alveolar abscessing to be recorded: craniometric and postcraniometric data to be obtained in a systematic format that provides basic information such as stature; and other techniques as appropriate. Although the initial focus concerns description and documentation of a specific sample, the long-term objective is to obtain information that will facilitate future comparative research. The report based on the osteological analysis should identify the research objectives, method of analysis, and results. Specific data (e.g., measurements, discrete trait observations) supplementing those traits comprising the main body of the report may be provided in a separate file including, for example, tables, graphs, and copies of original data collection forms. Unique pathological specimens should be photographed as part of basic documentation.

4. The expected timetable for excavation, analysis and preparation of the final report on the entire investigation.

C. A resume, vitae, or other statement of qualification shall be provided as part of the permit application demonstrating that the persons planning and supervising the field investigation and subsequent analysis meet the minimum qualifications consistent with the federal standards as cited in 36 CFR 61 and 43 CFR 7, as follows:

1. The qualifications of the archaeologist performing or supervising the work shall include a graduate degree in archaeology, anthropology, or closely related field plus:

- a. At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management;
- b. At least four months of supervised field and analytic experience in general North American archaeology; and
- c. Demonstrated ability to carry research to completion.

In addition, a prehistoric archaeologist shall have at least one year of full-time experience at a supervisory level in the study of archaeological resources of the prehistoric period. An historic archaeologist shall have at least one year of full-time experience at a supervisory level in the study of archaeological resources of the historic period.

2. The qualifications of the skeletal biologist needed to undertake the types of analyses outlined in subdivision B 3 of this section should have at least a master's degree with a specialization in human skeletal biology, bioarchaeology, forensic anthropology, or some other field of physical anthropology, plus two years of laboratory experience in the analysis of human skeletal remains. The individual must be able to develop a research design appropriate to the particular circumstances of the study and to conduct analyses of skeletal samples (including age, sex, race, osteometry, identification of osteological and dental disease, and the like),

employing state-of-the-art technology. The individual must have the documented ability to produce a concise written report of the findings and their interpretation.

D. Under extraordinary circumstances, the director shall have the authority to waive the requirements of research design and professional qualifications.

E. The permit application shall also include a statement describing the curation, which shall be respectful, and the proposed disposition of the remains upon completion of the research. When any disposition other than reburial is proposed, then the application shall also include a statement of the reasons for alternative disposition and the benefits to be gained thereby. In the absence of special conditions, including those that may come to light during excavation or analysis, this disposition shall be reburial within a two-year period from the date of removal unless requested otherwise by next of kin or other closely affiliated party.

F. When a waiver of public notice or other requirement based on an emergency situation is requested by the applicant then the permit application must include:

1. A statement describing specific threats facing the human skeletal remains or associated artifacts. This statement must make it clear why the emergency justifies the requested waiver.
2. A statement describing the known or expected location of the burials or the factors that suggest the presence of burials.
3. A statement describing the conservation methods that will be used, especially for skeletal material. Note that conservation treatment of bones should be reversible.

Statutory Authority

§§ [10.1-2205](#) and [10.1-2305](#) of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 4, eff. August 14, 1991; amended, Virginia Register [Volume 32, Issue 25](#), eff. September 8, 2016; Errata, 33:2 VA.R. 298 September 19, 2016.

17VAC5-20-50. Public comment.

A. Upon receiving notice from the director that the permit application is complete, the applicant shall arrange for public notification as deemed appropriate by the department.

B. In all cases, the applicant shall publish, or cause to be published, written notice in the following manners: notice in at least one local newspaper of general circulation in the area where the field investigation will occur; notice posted at the site of the graveyard or burial; notice to any historic preservation or other such commission, as well as area historical and genealogical societies; and notice of at least one public hearing. Each notice shall include:

1. The name and address of applicant;
2. A brief description of proposed field investigation;
3. A statement regarding the reason for the proposed relocation;
4. A statement informing the reader that the reader can request a public meeting;
5. A contact name, address, email address, and the phone number where the reader can get more information;

6. The street address of one or more locations in the project vicinity where a copy of the complete application can be viewed by members of the general public during regular business hours;
7. A statement that the complete application can also be reviewed and copied at the department or on the department's website;
8. A statement regarding the proposed disposition of any human remains and associated funerary objects recovered during the permitted recovery process. If any disposition other than reburial is proposed, the notice must specifically request public comment on this aspect of the application; and
9. The deadline for receipt of comments.

The notice shall be of a form approved by the director and shall invite interested persons to express their views on all aspects of the proposed field investigation to the director by a date certain prior to the issuance of the permit. Such notice shall be published once each week for four consecutive weeks.

C. The public notice requirement may be waived:

1. In cases where the applicant has demonstrated that, due to the rarity of the site or its scientific or monetary value and where security is not possible, it is likely that looting or other damage to the burial or surrounding site would occur as a result of the public notice.
2. In the case of an emergency and if, in the opinion of the director, the severity of a demonstrated emergency is such that compliance with the above public notice requirements may result in vandalism, looting, or the loss of significant information, or that the publication of such notice may substantially increase the threat of such loss through vandalism, the director, in such cases, may issue a permit prior to completion of the public notice and comment requirements. The applicant shall provide for such public notice and comment as determined by the director to be appropriate under the circumstances.

D. In cases of marked burials where a permit is sought pursuant to a court order subject to § [57-38.1](#) or [57-39](#) of the Code of Virginia, and in accordance with § [10.1-2305](#) C of the Code of Virginia, the applicant shall provide evidence of a reasonable effort to identify and notify next of kin.

E. In addition to the notification described in subsection B of this section, in the case of both prehistoric and historic Native American burials, the department shall inform the appropriate leaders of state-recognized and federally recognized tribes.

F. The department shall maintain a list of individuals and organizations who have asked to be notified of permit actions. This list will be updated annually and notices sent to all parties currently listed. In all cases notification shall be sent to the appropriate local jurisdiction.

G. Prior to the issuance of a permit, the director may elect to hold a public meeting on the permit application. The purpose of the public meeting shall be to obtain public comment on the proposed field investigations. The director shall decide whether or not to hold a public meeting on a case-by-case basis, and will include any requests following from the public notice in such considerations.

Statutory Authority

§§ [10.1-2205](#) and [10.1-2305](#) of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 5, eff. August 14, 1991; amended, Virginia Register [Volume 32, Issue 25](#), eff. September 8, 2016; Errata, 33:2 VA.R. 298 September 19, 2016.

17VAC5-20-60. Issuance or denial of permit.

A. Upon completion of the public comment period, the director shall decide whether to issue the permit within a 30-day review period. In the event the director received no adverse public comment, no further action is required prior to decision.

B. The director shall consider any comment received and evaluate it in the light of the benefits of the proposed investigation, the severity of any emergency, or the amount of scientific information which may be lost in the event no permit is issued. The director may also take such comments into account in establishing any conditions of the permit. In considering such comment, the director shall give priority to comments and recommendations made by individuals and parties most closely connected with the human burials subject to the application.

C. In making a decision on the permit application, the director shall consider the following:

1. The level of threat facing the human skeletal remains and associated cultural resources.
2. The appropriateness of the goals, objectives, research, design, and qualifications of the applicants to complete the proposed research in a scientific fashion. The director shall consider the U.S. Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, set out at 48 FR 44716 (September 29, 1983), in determining the appropriateness of the proposed research and in evaluating the qualifications of the applicants.
3. Comments received from the public.
4. The appropriateness of the proposed disposition of remains upon completion of the research. The director may specify a required disposition as a condition of granting the permit.
5. The performance of the applicant on any prior permitted investigation.
6. The applicability of other federal, state and local laws and regulations.

D. Failure to adequately meet all conditions in a previous permit shall be grounds for denial of any subsequent permit applications.

E. In the event the director proposes to deny a permit application, the director shall conduct an informal conference in accordance with § [2.2-4019](#) of the Administrative Process Act.

F. The permit shall contain such conditions which, in the judgment of the director, will protect the excavated human remains or associated artifacts.

G. A permit shall be valid for a period of time to be determined by the director as appropriate under the circumstances.

H. The director may extend or change the period or conditions of the permit or the period of analysis as noted in subdivision 12 of [17VAC5-20-30](#). In order to obtain such an extension or change the applicant must submit a written request demonstrating good cause. "Good cause" may include but not be limited to situations in which many more burials were encountered than were expected in the original permit application or where a new analytical technique or question will be applied within an expanded term of the permit. In making any decision to extend a permit, the director will consult with appropriate interested parties as identified in the initial public review.

I. The director may revoke any permit issued under this chapter for good cause shown. Such revocation shall be in accordance with the provisions of the Administrative Process Act.

Statutory Authority

§§ [10.1-2205](#) and [10.1-2305](#) of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 6, eff. August 14, 1991; amended, Virginia Register [Volume 32, Issue 25](#), eff. September 8, 2016; Errata, 33:2 VA.R. 298 September 19, 2016.

17VAC5-20-70. Excavations by the department.

The director may perform or cause to be performed a field investigation without a permit. The director shall comply with the public notice and comment provisions described above. All work conducted by the department under this clause shall meet the substantive requirements as set out in [17VAC5-20-40](#).

Statutory Authority

§§ [10.1-2202](#) and [10.1-2300](#) et seq. of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 7, eff. August 14, 1991.

17VAC5-20-80. Appeals.

A. The decision of the director made following the informal conference required by subsection D of [17VAC5-20-60](#) shall be a final case decision subject to judicial review in accordance with the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

B. Any interested party may appeal the director's decision to issue a permit or to act directly to excavate human remains to the local circuit court in accordance with § [10.1-2305](#) E of the Code of Virginia.

Statutory Authority

§§ [10.1-2202](#) and [10.1-2300](#) et seq. of the Code of Virginia.

Historical Notes

Derived from VR390-01-02 § 8, eff. August 14, 1991.

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.

As a service to the public, the Virginia Administrative Code is provided online by the Virginia General Assembly. We are unable to answer legal questions or respond to requests for legal advice, including application of law to specific fact. To understand and protect your legal rights, you should consult an attorney.

PUBLIC NOTICE OF INTENT TO RELOCATE INTERMENTS WITHIN THE [cemetery name], CITY OF _____ (if applicable), _____ COUNTY

1. APPLICANT:

[Name]

[Mailing address]

2. PROPOSED WORK AND NEED FOR RELOCATION: The applicant proposes to [describe project] on a ___ acre parcel located at/near [location] in order to [briefly explain need for project].

The cemetery contains [number] headstone markers with the following inscriptions: _____. [Number] unmarked graves also exist within the cemetery OR An unknown number of unmarked graves also exist within the cemetery. Documentary research indicates that the cemetery contains members of the [include family names].

[Applicant name] has determined that disturbance of the cemetery cannot be avoided due to [explain circumstances]. Pursuant to the requirements of VA Code §10.1-2305, the application *has applied / intends to apply* for a burial permit through the Virginia Department of Historic Resources (DHR) to allow the archaeological excavation and relocation of the aforementioned cemetery. A copy of the application may be requested from DHR.

The exhumed human remains and funerary objects will be temporarily curated at [specify location], and will be respectfully reburied at [specify location], unless otherwise requested by interested parties.

3. COMMENT PERIOD: Comments on this project should be made in writing, addressed to the following:

[Applicant or applicant's consultant name and contact information]; and

Joanna Wilson Green, Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221 or by email at burialpermits@dhr.virginia.gov.

Written comments should be received by the close of business on [end date – must be no fewer than four consecutive weeks from original posting]. A public hearing may be requested by any respondent to this notice.

4. CONTACT INFORMATION

If you have any questions about this project, please contact [Applicant/consultant]



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Ann Jennings
Secretary of Natural and
Historic Resources

Julie V. Langan
Director

Tel: (804) 367-2323
Fax: (804) 367-2391
www.dhr.virginia.gov

[date]

[ADDRESS]

Re: Application for the Archaeological Recovery of Human Remains Located _____,
_____ County, Virginia
DHR File No. _____

Dear _____:

In accordance with Section 10.1-2305 of the *Code of Virginia*, final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register on July 15, 1991, and following review by the Department, the Department of Historic Resources on this __ day of ____, 20__, hereby grants to _____ of _____ permission to recover human remains buried within marked/unmarked graves located _____ on the _____ property in _____, Virginia. This permit is to be considered effective as of today's date.

The granting of this permit signifies that:

1. [if applicable] The Department is aware that the recovery is part of the _____ project, which is under review by the Office of Review and Compliance (DHR Project Review No. _____).
2. [if applicable] The Department is aware that the [fed agency] has determined that the _____ cemetery is eligible for inclusion in the National Register of Historic Places under Criterion/a _____.
3. [if applicable] The Department understands that the [fed agency] has determined that disturbance of the ____ cemetery is unavoidable, and in response to this determination has caused the enactment of a Memorandum of Agreement (MOA) among the [signatory parties].

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4. The Department has received from the Permittee and has approved a statement detailing the goals and objectives of the project.
5. The Department has reviewed the vitae of the professionally-qualified archaeologist and physical anthropologist responsible for the proposed work and has found them qualified to complete the work.
6. The Department has received accurate information as to the location of the _____ cemetery within the _____ property as well as the location of all known grave features identified as of today's date.
7. The Department has received assurances that there are adequate resources to carry out the research design and treatment plan, and to ensure the respectful treatment of all human remains and associated funerary items recovered from the __cemetery.
8. *[if applicable]* The Department understands that a reburial site has/ has not been selected as of the date of this permit.
9. The Department has received confirmation of public notice in local print media, on site, and on the Department's webpage, and that no responses/objections to the proposed relocation were received as a result of that notice; OR The Department has received confirmation of public notice in local print media, on site, and on the Department's webpage, as well as documentation of [consultation, public meeting, etc.] by the applicant to address comments received as a result of said notification.
10. The Department has concluded that issuance of this permit for archaeological recovery of human remains is necessary in order to ensure that any and all buried remains and associated funerary items contained within the _____ cemetery will be carefully and completely recovered, and that important information about the cemetery and this period of _____ City's/County's history will be properly recorded.

This permit is granted subject to the following conditions:

1. The Permittee shall ensure that the project archaeologist carries a copy of this permit at all times during fieldwork associated with this permit.
2. The Permittee shall proceed in accordance with the approved research design as proposed in the permit application. Any changes to this methodology must receive the prior written approval of the Department.
3. The Permittee shall ensure that all earthmoving activity within and around the ___ cemetery takes place at the direction and under the supervision of the supervising archaeologist, who shall be allowed to dictate the terms under which soil is removed from any known or presumed grave

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4. The Department understands that any and all human remains recovered during this process will be transported to the _____ at _____ in _____ for anthropological analysis. The Permittee is responsible for obtaining any necessary transportation permits for this purpose.
5. The Permittee shall prepare a plan for final disposition of any remains and associated funerary items and submit it to the Department for review and approval. The Department will consider the views of any consulting parties as well as any comments received from the interested public, and will reach a decision on final disposition within sixty (60) days of receipt. No reburial or other disposition shall take place in the absence of the Department's written approval.
6. If the proposed reburial site is not within a chartered cemetery, the Department may require that the proposed reburial site be investigated by the Permittee's consultant to ensure that no archaeological sites or preexisting graves are disturbed during the reburial process.
7. In the event that the reburial site is not within a chartered cemetery, the Permittee shall ensure that the reburial location is recorded in the land records of _____ City/County as a cemetery.
8. The Permittee shall ensure that all human remains as well as any funerary items (including headstones or other markers) recovered during this process are maintained in a discreet and secure location and in a respectful and dignified manner until reburial of the human remains and relocation of the headstones or markers is complete.
9. The Permittee shall inform the Department in writing of the completion of field work involving the recovery of human remains and/or associated funerary artifacts, and the completion of the final disposition of those remains and associated artifacts, within two (2) weeks of implementation.
10. The Permittee shall ensure that the architectural and archaeological resource forms, mapping, and other archival data associated with this property are updated and accepted by the Department prior to submittal of the final report.
11. Prior to [PERMIT END DATE], the Permittee shall prepare a technical report(s) of the field investigations involving the recovery of human remains conducted under this permit and submit two copies of it (them) to the Department for review and approval, with a copy to identified interested parties for review and comment. One copy of the report shall be provided to any respondent to the public notice as well. All reports shall meet the federal standards entitled *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716-44742, September 29, 1983) and the Department's *Guidelines for Historic Resources*

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Survey in Virginia (2017 and as amended or revised). All comments received within thirty (30) days of report receipt shall be addressed in the final report(s).

12. All archaeological materials (with the exception of human remains and associated funerary or ceremonial objects) resulting from investigations conducted under this permit, including artifacts, field records and photographs, shall be placed in the Department's collections upon completion of the study and shall be curated in accordance with the Department's *State Curation Standards* (2011 and as amended or superseded).
13. The Department retains the right to revoke this permit upon the initiative of the Director, or upon the request of any interested party, for violations of any of the above conditions, or if good cause is otherwise demonstrated.

This permit shall be valid for _____ (XX) months from the date of issuance. This permit is not transferable.

Sincerely,

Julie V. Langan
Director

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COMMONWEALTH of VIRGINIA

Department of Historic Resources

Ann Jennings
Secretary of Natural and
Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Julie V. Langan
Director

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[DATE]

[Applicant's mailing address]

Re: Application for the Removal and Temporary Curation of Human Remains Located at _____, _____ City/County, Virginia
DHR File No. ____-____

Dear _____:

In accordance with Section 10.1-2305 of the *Code of Virginia*, final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register on July 15, 1991, and following review by the Department, the Department of Historic Resources on this ____ day of _____, 2017, hereby grants to [APPLICANT] of [COMPANY/ORGANIZATION] permission to remove and temporarily curate human remains that may accidentally be disturbed during archaeological delineation of possible unmarked graves located on the _____ property in _____ city/County, Virginia. This is not a recovery permit and does not provide legal permission for the purposeful archaeological recovery of buried human remains. Any such activity must receive a separate permit issued by this office. This permit is to be considered effective as of today's date.

The granting of this permit signifies that:

1. [if applicable] The Department is aware that the recovery is part of the [ORC REVIEW PROJECT TITLE], which is under review by the Office of Review and Compliance (DHR Project Review No. ____-____).
2. [if applicable] The Department is aware that the [PROJECT TITLE or PROPERTY NAME] is located adjacent to/within the boundaries of [Civil War battlefield, known archaeological site, known cemetery, etc.] and that buried human remains may exist within the project area.

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3. The Department has received from the Permittee and has approved a statement detailing the goals and objectives of the project.
4. The Department has reviewed the vita of the professionally-qualified archaeologist responsible for the proposed work and has found [him/her] qualified to complete the work.
5. The Department has received accurate information as to the location of the [project, possible unmarked cemetery, etc.] and the proposed location of [STPs, test trenches, etc.] designed to identify any interment features.
6. The Department has received assurances that there are adequate resources to carry out the research design and treatment plan, and to ensure the respectful treatment of all human remains and associated funerary items that may accidentally be disturbed during archaeological delineation of the possible unmarked cemetery.
7. The Department has agreed to waive the public notice requirement as exposure, disturbance or recovery of human remains and associated funerary objects is not proposed or intended as a result of planned [archaeological survey, delineation, etc.] activities.
8. The Department has concluded that issuance of this permit for removal and temporary curation of human remains is necessary in order to ensure that any and all buried remains and associated funerary items inadvertently disturbed during archaeological delineation of the possible unmarked cemetery will be carefully recovered and treated, and that important information about _____ City's/County's history will be properly recorded.

This permit is granted subject to the following conditions:

1. The Permittee shall ensure that the project archaeologist carries a copy of this permit at all times during fieldwork associated with this permit.
2. The Permittee shall proceed in accordance with the approved research design as proposed in the permit application. Any changes to this methodology must receive the prior written approval of the Department.
3. Under no circumstances shall burial chambers be excavated or *in situ* human remains archaeologically recovered under this permit. Should it become necessary to disinter buried human remains, the Permittee must apply for a recovery permit and complete the public notice process as required by §10.1-2305 and its implementing regulations.
4. [*if applicable*] The Permittee shall ensure that all earthmoving activity within and around the possible unmarked cemetery takes place at the direction and under the supervision of the supervising archaeologist, who shall be allowed to dictate the terms under which soil is removed from any known or presumed grave feature.

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5. The Permittee shall notify the Department immediately upon discovery or disturbance of human remains or funerary objects, and shall take all necessary precautions to avoid additional disturbance or displacement. This notification may be by telephone but must be followed up in writing (email is sufficient). Additional activity in the area of discovery shall cease until the Department has been contacted and a treatment plan is in place.
6. To the extent possible, any human remains or funerary objects inadvertently disturbed during archaeological investigation will be documented and returned as closely as possible to their original location. If replacement is not possible, the supervising archaeologist shall cause the remains to be removed for temporary curation until such time as reburial can take place. The Permittee is responsible for obtaining any necessary transportation permits for this purpose.
7. The Permittee shall ensure that all human remains as well as any funerary items removed during this process are maintained in a discreet and secure location and in a respectful and dignified manner until reburial is complete.
8. The Permittee shall prepare a plan for final disposition of any remains and associated funerary items and submit it to the Department for review and approval. The Department will consider the views of any consulting parties as well as any comments received from the interested public, and will reach a decision on final disposition within sixty (60) days of receipt. No reburial or other disposition shall take place in the absence of the Department's written approval.
9. The Permittee shall inform the Department in writing of the completion of field work involving the removal of human remains and/or associated funerary artifacts, and the completion of the final disposition of those remains and associated artifacts, within two (2) weeks of implementation.
10. The Permittee shall ensure that the architectural and archaeological resource forms, mapping, and other archival data associated with this property are updated and accepted by the Department prior to submittal of the final report.
11. Prior to [permit end date], the Permittee shall prepare a technical report(s) of the field investigations conducted under this permit and submit two copies of it (them) to the Department for review and approval, with a copy to identified interested parties for review and comment. All reports shall meet the federal standards entitled *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716-44742, September 29, 1983) and the Department's *Guidelines for Historic Resources Survey in Virginia* (2017 and as amended or superseded). All comments received within thirty (30) days of report receipt shall be addressed in the final report(s).
12. All archaeological materials (with the exception of human remains and associated funerary or ceremonial objects) resulting from investigations conducted under this permit, including

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artifacts, field records and photographs, shall be placed in the Department's collections upon completion of the study and shall be curated in accordance with the Department's *State Curation Standards* (2011 and as amended or superseded).

13. The Department retains the right to revoke this permit upon the initiative of the Director, or upon the request of any interested party for violations of any of the above conditions, or if good cause is otherwise demonstrated.

This permit shall be valid for six (6) months from the date of issuance. This permit is not transferable.

Sincerely,

Julie V. Langan
Director

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